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SUPREME COURT OF THE UNITED STATES.

No. 41.

THE UNITED STATES APPELLANT.

VERSUS

JOSEPH DELESPINE'S HEIRS, ET. AL.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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(Langtree & O'Sullivan Print.)

Before the honorable Robert Raymond Reid, Judge of the Superior Court for the District of East Florida, and specially authorized by law, to receive and adjudicate claims and titles to lands in the District of East Florida.

SUPERIOR COURT,
East Florida.

Be it remembered, that on the fifteenth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Michael Lazarus, Enoch Weswall, Joseph Delespine, and John Drysdale, brought and filed in the clerk's office of the Superior Court for the district of East Florida, their petition or claim to certain lands therein mentioned; which said petition or claim is in the words and figures following, to wit:

PETITION TO THE COURT.

To the honorable Joseph L. Smith, judge of the Superior Court for the eastern district of the Territory of Florida.

The petition of Michael Lazarus, Enoch Weswall, Joseph Delespine, and John Drysdale, citizens of the United States,

RESPECTFULLY SHEWETH:

That your petitioners claim title as tenants, in common to all that certain tract or parcel of land, situate, lying and being on the west side of the river Ys, or, Indian river, in that part of the Territory of Florida, known as East Florida, and within the jurisdiction of this honorable court; which said tract of land contains forty-three thousand acres.

Your petitioner further shews, that the said tract of land was originally granted to one Joseph Delespine, a subject of his Catholic Majesty, and at the time the said lands was so granted to him, a resident, inhabitant, of East Florida aforesaid, then a province and dependancy of the crown of Spain, that the said grant bearing, date the ninth day of April, one thousand eight hundred and seventeen, was duly made on or about that day, by Don Jose Coppinger, then the Governor of the said province of East Florida, in virtue of the powers and authority in him vested as such Governor.

And your petitioners further shew, that the said forty-three thousand acres of land were afterwards, to wit, in the month of January one thousand eight hundred and twenty, as to two thousand acres thereof, surveyed and laid off by George I. F. Clarke, then the surveyor general of the province of East Florida, on the north west side of the head of Indian river aforesaid, which said tract or parcel of land has the following lines and dimensions, that is to say, the first line runs north 15 degrees, west eighty chains; the second line runs south seventy-five degrees, west two hundred and fifty chains; the third line runs south 15 degrees, east eighty chains; and the fourth

line runs north seventy-five degrees, east two hundred and fifty chains, to the place of beginning; as will more fully appear by a reference to the plat and certificate of the survey of the said two thousand acres of land, made by the surveyor general of East Florida, bearing date the 25th January, 1820; a duly certified copy whereof is hereto annexed. And as to forty-one thousand acres, the residue of the said forty-three thousand acres, the said forty-one thousand acres were, in the month of February, one thousand eight hundred and twenty, surveyed and laid off by the said George I. F. Clarke, then also the surveyor general of the province of East Florida, on the north west side of said river Ys, or Indian river; which said parcel of forty-one thousand acres of land, has the following lines, dimensions, and boundaries, that is to say, the first line thereof begins at a stake marked D, on the bank of the river Ys, or Indian river, and runs south sixty-five degrees, west, five hundred and seventy-four (574) chains, to a stake on the bank of the river St. Johns; the second line begins at the place of beginning, and thence runs south twenty-five degrees east, six hundred and forty chains along the bank of the said river Ys, or Indian river, to a palmetto tree marked D, on the bank of said river; the third line runs thence south 65 degrees west, seven hundred and six chains, to a stake on the bank of the river St. Johns; and the fourth line runs thence along the bank of the said river St. Johns, to the stake at the termination of the first line, as will fully appear by a reference to the plat and certificate of the surveyor thereof, made by the said surveyor general, dated 20th February, 1820, hereto annexed.

And your petitioners shew, that the said Michael Lazarus claims title to eighteen thousand four hundred and fifty acres, part and parcel of the aforesaid tract of land, so granted as aforesaid, to the said Joseph Delespine, and part and parcel of the said forty-one thousand acres, surveyed as aforesaid, which said 18,450 acres of land were granted, bargained and sold, in fee simple, absolute, by the said Joseph Delespine, to the said Michael Lazarus by indenture, bearing date the day of as will more fully and at large appear by the said indenture, reference being thereto had.

And your petitioners further shew unto your honor, that the said Enoch Weswall, claims title to other eighteen thousand four hundred and fifty acres, part and parcel of the said tract of land, so granted as aforesaid, to the said Joseph Delespine, and part and parcel of the said forty-one thousand acres, so surveyed as aforesaid; which said 18,450 acres of land were by indenture, bearing date the 17 December, 1827, granted, bargained and sold, by the said Joseph Delespine, to the said Enoch Weswall in fee simple, absolute, as by the said indenture, reference being thereto had, will more fully and at large appear.

And your petitioners further shew, that the said John Drysdale claims title to one undivided tenth part of the aforesaid forty-three thousand acres of land, so granted to the said Joseph Delespine as aforesaid; which said undivided tenth part of the said land was by the said Joseph Delespine granted, bargained and sold, to the said

John Drysdale for a full and valuable consideration by him paid to the said Joseph Delespine, by a certain indenture duly made and executed by the said Joseph Delespine, as by a reference thereto will more fully and at large appear. And the said Joseph Delespine claims title to the residue of the said grant, consisting of one thousand eight hundred acres.

And your petitioners further shew unto your honor, that the claim of the said Joseph Delespine, to whom the said lands were so granted as aforesaid, as well for the benefit of those entitled under him to the said lands as for his own benefit, has been duly submitted to the examination of the board of commissioners, appointed under, and in virtue of an act of the Congress of the United States, entitled, "An act amending and supplementary to the act for ascertaining claims and titles to lands in the Territory of Florida and to provide for the survey and disposal of the public lands in Florida," passed the third day of March, 1823: and that the said lands so claimed by them and situated within the Territory of Florida, as aforesaid, are embraced by the treaty between Spain and the United States, of the twenty-second of February, one thousand eight hundred and nineteen; and that the grant thereof has not been annulled by the said treaty, or by the ratification thereof by the King of Spain; that the said claim has not been decided, or finally settled under the provisions of the act of the Congress of the United States, entitled, "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in the Territory of Florida, passed 23d May, 1828," or of any of the acts to which the said last recited act is supplementary: that the said claim contains a greater quantity of land than the commissioners appointed under the said act were authorized to decide, and above the amount confirmed by the afore recited act of Congress, passed 23d May, 1828; and that the said claim has not been reported by the commissioners appointed under any of the aforesaid acts, or any other, or by the register and receiver, acting as such under the several acts of the Congress of the United States in that case provided, as antedated or forged. Wherefore your petitioners pray that the validity of their respective titles, to the said so claimed, by them as aforesaid, may be inquired into, and decided upon by this honorable court; and that due process may issue and be served upon the attorney of the United States for the eastern district of Florida, according to the provisions of the acts of Congress in such cases made and provided. And your petitioners as in duty bound, &c.

JNO. DRYSDALE,
Atty. for Petitioners.

A copy of the above petition, with a citation thereto annexed, was delivered to the marshal of the district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon, is in the words and figures following to wit:

"Served copy on Thos. Douglas, Esq. U. S. atty. 21 May, 1829."

WATERS SMITH,
Marshal.

And afterwards, to wit, on the twentieth day of July, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office of the said court, his answer to the foregoing petition; which said answer is in the words and figures following, to wit:

ANSWER OF THE U. S. ATTORNEY.

THE UNITED STATES OF AMERICA *ads.* MICHAEL LAZARUS, and others.	Superior Court, November term, in the year 1829.

The answer of Thomas Douglass, United States attorney for the district of East Florida, to the petition or bill of complaint of Michael Lazarus, Enoch Weswall, and John Drysdale.

The said attorney in the name, and for and on behalf of the same United States, saving and reserving to them now and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities, in the said petition or bill of complaint contained, for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, answereth and saith: That whether any such grant of forty-three thousand acres of land was made by the said Don Jose Coppinger, Governor of the province of East Florida, to Joseph Delespine, bearing date the ninth day of April, one thousand eight hundred and seventeen, as the said petitioners have in their said petition or bill of complaint alleged, and described, or whether any such survey of forty-one thousand acres of the said land was ever made by George I. F. Clarke, surveyor general of the said province of East Florida, on the west side of Ys or Indian river, and opposite to Menitto island in the said river, as the petitioners aforesaid, have in their said petition or bill of complaint alleged, set forth and described, or whether the said land was sold and conveyed by the said Joseph Delespine to the said several petitioners, respectively, in manner and form as they, in their petition or bill of complaint aforesaid, have alleged, or whether any such indentures were ever made, as are therein mentioned and described, this respondent has no knowledge, except what he has derived from a perusal of the said petition or bill of complaint, and cannot therefore either admit or deny the same; but respectfully prays this honorable court to require of the said petitioner due proof of the making, executions, and delivery of the said supposed grant of forty-three thousand acres of land to said Joseph Delespine, by the said Don Jose Coppinger, Governor &c. as aforesaid, and of the making of the said survey by the said George I. F. Clarke, surveyor general &c. as aforesaid, and of the making of the said sales and conveyances, and of the making, execution, and delivery of said several indentures, if indeed, any such grant, survey, sales, conveyances, or indentures, were ever made, as the said petitioners have, in their petition or bill of complaint

aforesaid, alleged and described, which is by no means admitted; and if all the matters and things in the said petition or bill of complaint, alleged and set forth, as they are therein stated according to law, and the usages of courts of equity.

And this respondent avers, that if any such grant of land was made by the said Don Jose Coppinger, Governor, &c. as aforesaid, to the said Joseph Delespine, as the said petitioners, in their petition or bill of complaint aforesaid, have alleged and described, which is not admitted, it was made contrary to, and in violation of, the laws, ordinances, and royal regulations of the Government of Spain, which were in force in the said province of East Florida, at the time when the said supposed grant is alleged to have been made as aforesaid, providing for the granting of lands in its provinces, of which said provinces, the said province of East Florida, was then one, and without any power or authority on the part of the said Don Jose Coppinger, Governor, &c. as aforesaid, to make the same; and that it was never approved by the said Government of Spain, and that it was and is wholly null and void, as will more fully appear by reference to the laws, ordinances, and royal regulation aforesaid, all of which this respondent prays leave to introduce and read on the hearing of this cause. And this respondent further saith, that at the time when the said supposed grant is alleged to have been made as aforesaid, no power had been conferred by the said Government of Spain, upon the said Don Jose Coppinger, Governor, &c. as aforesaid, to make grants of land in East Florida of the magnitude and description of the one now claimed and described by the petitioners in this suit; and this respondent further prays that the said petitioners may be required to show and prove, on the hearing of this cause, the specific powers which had been conferred, (if any power had been conferred) by the Government of Spain aforesaid, upon the said Don Jose Coppinger, Governor, &c. aforesaid, at the time when the said supposed grant is alleged to have been made as aforesaid, to make grants of land in East Florida, and particularly that they may be required to show and prove the specific powers under which the said Don Jose Coppinger, Governor, &c. as aforesaid, claimed to act in making the said supposed grant, if indeed any such grant was ever made by him.

And this respondent suggests, that if the petitioners aforesaid, have any grant or surveys for the said land, the said grant and survey must have been made since the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and eighteen, and that they are rendered entirely null and void by the provisions of the latter clause of the eighth article of the treaty, which was made and concluded by and between the said Government of Spain and the same United States, on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, as will more fully appear by reference to the aforesaid treaty, which this respondent prays leave to introduce and read on the hearing of this cause.

And this respondent further saith, that at the time when the said supposed grant is in the said petition or bill of complaint alleged to

to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the said Government of Spain, to parcel out its colonial domain with reference solely to the objects of increasing the population of its provinces, and of benefitting its indigent subjects; and that, according to that policy, grants of land for purposes of speculation were never approved or tolerated by the said Government; and that the grant of land aforesaid, was obtained by the said Joseph Delespine (if it was obtained at all) for purposes of speculation only. And this respondent further saith, that if the said supposed grant of land was made, as in the said petition or bill of complaint is alleged, the said Joseph Delespine, in order to obtain it, presented to the said Don José Coppinger, Governor &c. as aforesaid, his memorial, which is in the said supposed grant mentioned and referred to; in which said memorial, he, the said Joseph Delespine, represented to the said Don José Coppinger, Governor &c. as foresaid, for the purpose of inducing the said Don José Coppinger, Governor &c. as aforesaid, to make the said grant, that he, the said Joseph Delespine, had rendered certain personal services at various times during the revolutions of this province, without pay, rations, or reimbursements; and that he expended various sums of money for supplies of provisions &c., which he, the said Joseph Delespine, in his memorial aforesaid, alleged that, during a time of scarcity and danger, he had imported into this city for the supply of its garrison and public officers, &c.; which sums of money, the said Joseph Delespine, in his said memorial, claimed from the royal finance; and that he had suffered losses in his property and interests during (what he therein terms) the revolution of the year 1813 and '14, in consequence of his loyalty to the Government, and that he had at that time received no recompense whatever for his said services, disbursements and losses. And this respondent further saith, that the said grant of land (if it was made at all) was made in consequence of the said representations so, by the said Joseph Delespine, in his said memorial, made as aforesaid, and of certain certificates which he, the said Joseph Delespine, presented together with his said memorial to the said Don José Coppinger, Governor &c. as aforesaid, and which he cited in his said memorial, as appears by the said supposed grant itself; but whether the said Joseph Delepine rendered any such services, expended any such sums of money, or sustained any such losses, this respondent does not know, and cannot, therefore, either positively deny or affirm that he did; and this respondent further prays, that the said petitioners may be further required to show and prove, on the hearing of this cause, the specific nature and extent of the services so rendered by him, (if any such he rendered) and of the specific sum or sums of money which he expended, and the kind and quantity of provisions which he imported as aforesaid, and of the nature thereof, if, indeed, he expended any such sum or sums of money, or imported any such provisions as aforesaid, and of the specific nature and extent of the losses (if any) which he sustained; and particularly, by what right he claimed to be reimbursed for the same from the royal finance.

And this respondent further suggests, that if the said grant was made as aforesaid, and if the said Governor Coppinger had been invested by the said Government of Spain, with competent power and authority to make it, the said Joseph Delespine, and the said petitioners have, for the space of more than twelve years last past, wholly failed and neglected to occupy, cultivate or improve the same, in any manner whatever; and that they, and each of them, have thereby forfeited, and entirely lost all right and title (if any they, or either of them, ever had) thereto.

And this respondent admits, that the claim of the said Joseph Delespine, for the benefit of himself and those who claim under him, has been duly submitted to the examination of the board of commissioners in the said petition or bill of complaint mentioned; but whether the said board of commissioners have made any report thereon this respondent is not advised; and suggests, that if the board of commissioners aforesaid have not reported upon the said claim, this court has no jurisdiction in this case, and can exercise no jurisdiction over the said supposed grant, as against the said United States.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges, by them in and about the defence of this suit paid, laid out and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLASS,
United States Attorney, &c.

And afterwards, to wit, on the twelfth day of May, in the year of our Lord one thousand eight hundred and thirty-two, the said claimants, by their said solicitor, brought and filed in the clerk's office aforesaid, their replication, which is in the words and figures following, to wit:

REPLICATION.

MICHAEL LAZARUS and others
vs.
THE UNITED STATES.
} In Chancery. Replication.

These replicants, saving and reserving all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the said defendants, for replication therunto saith, that they, these replicants, do, and will, aver, maintain and prove their said bill to be true, certain and sufficient in the law, to be answered unto by the said defendants; and that the answer is very uncertain, evasive and insufficient in the law, to be replied unto by the replicants, without that, that any other matter or thing, in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true;

all which matters and things, these replicants are ready to aver, maintain and prove, as this honorable court shall direct, and humbly pray, as in and by their said bill they have all already prayed.

JNO. DRYSDALE,
Solicitor for Petitioners.

And afterwards, before the Superior Court for East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord, one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit, on Monday the twentieth day of said term, and the eighteenth day of August, the following entry of record was made in this cause, to wit:

LEAVE TO AMEND PETITION.

Michael Lazarus & Others *vs.* The United States of America.	Land Claim, 43,000 Acres.

Leave is given the said claimants' counsel to amend the petition in this case.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Thursday the twenty-third day of said term, and the twenty-first day of August, the following entry of record was made in this cause, to wit:

HEARING OF CAUSE.

Michael Lazarus, Enoch Weswall, & John Drysdale, *against* The United States of America.	Land Claim. 43,000 Acres.

This day came as well the counsel for the said claimants as the counsel for the said United States, and the counsel for the United States moved the court for a continuance of this cause, which motion was over-ruled by the court; whereupon this cause came on to be heard this day; and the petition of the said claimants, and the answer of the attorney of the United States, together with the replication of the said claimant, were read to the court. The claimants' counsel offered and read in evidence in this case the affidavits of Joseph Delespine and John Drysale, filed in this case, to the receiving of which in evidence the counsel for the United States objected, which objection was over-ruled by the court, and the said affidavits admitted in evidence, but subject to the opinion of the court as to their admissibility on hearing the argument in this cause. The claimants' counsel then offered in evidence a certified copy by the keeper of the public archives of East Florida, of a translation of a document, purporting to be an original certified copy, by Thomas de Aguilar, said to be Go-

vernment Secretary in this province, of the memorial and concession to Joseph Delespine for the land claimed in this case, and is one of the documents exhibited and testified to by Antonio Alvarez on this day, as by his testimony appears, to the receiving of which in evidence the counsel for the United States objected, and filed the following reason therefore, to wit: Because it is a mere copy of a translation, the original of which said translation is also offered in evidence in this case; which objection was over-ruled by the court, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause. The claimants' counsel then offered in evidence the original certified translation, by Francis J. Fatio, of the said certified copy by Thomas de Aguilar, brought into court by the keeper of the public archives of East Florida, in obedience to a subpœna *duces tecum* issued from this court, and is one of the documents exhibited and testified to by the said Antonio Alvarez on this day, as by his testimony appears to the receiving the said document in evidence the counsel for the United States objected, and filed the following reasons therefore to wit: 1st. The translation is not duly certified. 2d. The secretary of the board of land commissioners was not authorized to make translations, except when required by the said commissioners; and this translation does not appear to have been thus made. 3d. The document purports to be a translation of a copy of a concession, certified by Tomas de Aguilar, to which last mentioned document the U. States, by their counsel, object, for the following reasons: 1st. Because the Spanish archives of the province, among which the original concession should have been found, if any such ever existed, have been resorted to, and they afford no evidence that such an original ever did exist. 2d. Because the absence of the original from the office where the laws and usages of Spain require it to be deposited, and where the laws of the United States now require all such documents to be kept, (when unexplained,) creates a strong presumption that no such original ever existed. 3d. Because the absence of the original from the office, assigned for it by law, is unexplained and unaccounted for. 4th. Because the complainant has not proven the execution of the original, from which the copy is certified to have been taken. 5th. Because the original, if produced, could not be received in evidence, without proving the signature of the Governor, and a copy can never be admitted in evidence, when the original, if produced, would require support from collateral proof. 6th. Because the copy cannot prove the signature of the Governor to the original grant, if such original ever existed. 7th. Because, to admit the copy in evidence, would be to allow it higher dignity and credit than the original; which objections were over-ruled by the court, and the said document admitted in evidence, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause. The claimants' counsel then offered in evidence, the original memorial of Joseph Delespine to the board of land commissioners, praying for the confirmation of the land claimed in this case, brought into court by the keeper of the public archives for East Florida, under a subpœna *duces tecum*, issued from this

court. The claimants' counsel then read in evidence the report of the register and receiver of this district, acting as Land Commissioners to the Secretary of the Treasury, in this case, and found in their report of January, 1829, at page 88. The claimants' counsel then offered in evidence, a certified copy by the keeper of the public archives of East Florida, of the testimony of George I. F. Clarke, and Antonio Alvarez, taken in this case before the board of land commissioners; to the receiving of which in evidence, the counsel for the United States objected, because the said witnesses are living, and are now within the reach of the process of the court; which objection was over-ruled by the court, and the said documents admitted in evidence, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause. The claimants' counsel then read in evidence the deposition of Antonio Alvarez, John M. Fontane, and George I. F. Clarke, as taken in this case, and also offered in evidence, the deposition of Antonio Alvarez, as taken in the case of John Breward against the United States, the same being so copied as to be made applicable to this case. The claimants' counsel then offered in evidence the mesne conveyances in this case, to wit: a deed of from Joseph Delespine to Michael Lazarus, for 21,500 acres of land, dated 28th February, 1822. Also, a deed from Joseph Delespine to Enoch Weswall, for 18,450 acres of land, dated 17th December, 1827; and, also, a deed from Joseph Delespine to John Drysdale, for one undivided tenth part of 43,000 acres of land, dated 31st October, 1824. The counsel for the United States offered in evidence to depositions of Antonio Alvarez, taken in the cases of John W. Lowe, and others, and of Oliver O. Hard, and others, against the United States, the same being so copied as to be made applicable to this case. The counsel for the United States then offered in evidence a certified copy, with translation, of a letter from Luis de Onis to the Governor of Florida, dated 31st August, 1817; also, a certified copy, with translation, of a letter from the Governor of East Florida to Luis de Onis, dated 24th December, 1817; to the receiving the said documents in evidence, the counsel for the claimants objected, which objection was over-ruled by the court, and the said documents admitted in evidence, but subject to the opinion of the court, as to their admissibility, on hearing the argument in this cause.

And the evidence and testimony in this case, on both sides being now concluded, this claim was submitted to the court for its decree therein; but leave is given to both parties to introduce further evidence in this case.

FURTHER HEARING OF CAUSE.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Monday, the twenty-sixth day of said term, and the twenty-fifth day of August, the following entry of record was made in this cause, to wit:

MICHAEL LAZARUS, ENOCH WESWALL, AND JOHN DRYSDALE *against* THE UNITED STATES OF AMERICA.	Land Claim, 43,000 acres.

This day came as well the counsel for the said claimants, as the counsel for the United States, and under the leave of the court entered in this case on the 21st inst. The counsel for the claimants offered in evidence two certificates and plats of survey for the lands claimed in this case; one for two thousand acres, dated 25th January, 1820, and the other for 41,000 acres, dated February 20th 1820, to the receiving of which, in evidence, the counsel for the United States objected, because the said certificates of survey bear date after the 24th January, 1818, and because they do not follow the calls of the grant; which objection was overruled by the court, and the said documents admitted in evidence, but subject to the opinion of the court as to their admissibility on hearing the argument in this cause. And the counsel for the United States offered in evidence a letter from the Captain General of the Island of Cuba to the Governer of East Florida, dated 14th November, 1805, to the receiving of which, in evidence, the counsel for the claimants objected, and the objection was overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause.

Evidence and testimony offered and read in evidence in this cause at the hearing thereof, and referred to in the two foregoing entries of record. Those numbered from *one* to *fifteen* inclusive, having been offered by the *claimants*, and those numberred from *sixteen* to *twenty* inclusive, having been offered by the counsel for the *United States*, *to wit:*

[No. 1.]

AFFIDAVIT OF DELESPINE,

Offered and read by claimants.

MICHAEL LAZARUS AND OTHERS *vs.* THE UNITED STATES.

Joseph Delespine being duly sworn, doth depose and say, that in the year 1817, he received from Don Jose Coppinger, a concession in absolute property for forty-three thousand acres of land on the river Ys, or Indian river, in East Florida; that at the time the said concession was made to him, this deponent received from the proper officer, Don Tomas de Aguilar, who was then the Secretary of the Government of East Florida, a copy of the said concession, certified to be a true copy of the said original concession under the hands of the said Tomas de Aguilar, his name being thereto subscribed as Government secretary, hat soon after the board for ascertaining claims and titles to lands in

East Florida, was established in St. Augustine, this deponent employed Mr. John Drysdale, as his attorney, to present to, and obtain from the said board the conformation of his title to the said lands, and for that purpose placed in his hands the said certified copy of the said concession. This deponent saith, that he has not had the said copy of this concession in his hands, posession, or power, since he delivered it to Mr. Drysdale, for the purpose aforesaid, nor has this deponent, so far as he now recollects, seen it since the trial before the land commissioners of his claim upon the said concession, when the handwriting of the signature thereto was proved to be that of Tomas de Aguilar, the late Secretary of the Government of the province of East Florida. This deponent first learned from the said John Drysdale, a considerable time, say about eighteen months since, that the said certified copy of the said concession could not be found. The said John Drysdale then inquiring of this deponent, whether he knew any thing of it. This deponent further deposes that it was not until a short time after the cession of this country to the United States, that he knew that the original of the aforesaid concession or grant was not to be found in the office of public archives; that this deponent never had the original concession for the said land in his possession, power, or control, nor can he say what has become of it.

JOSEPH DELESPINE.

Sworn to before me, the 14th of May, 1832.

E. B. GOULD,
Presiding Justice of St. John's county.

[No. 2.]

AFFIDAVIT OF DRYSDALE.

Offered and read by Claimants.

In the Supreme Court of Eastern District, Florida.

MICHAEL LAZARUS, ET. AL.
vs.
THE UNITED STATES.
} Claim for 43,000 acres of Land.

Personally appeared John Drysdale, one of the petitioners in this cause, who, being duly sworn, doth depose and say, that he was employed by Mr. Joseph Delespine, now deceased, to file a claim for him before the board of land commissioners appointed to ascertain claims and titles to lands in East Florida, for forty-three thousand acres of land, under a concession or grant from Governor Coppinger, to the said Joseph Delespine, made in 1817; that this deponent filed the said claim in the year ——, that at the time he did so, the original concession or grant was not to be found in the office of the keeper of the public archives of East Florida; that Mr. Delespine at that time represented it to have been lost; that a copy of the memorial of the said Joseph Delespine, and of the said concession thereupon, for the said forty-three thousand acres of land, purporting to have been

made and certified by Tomas de Aguilar, as Secretary of the Government, was placed in the hands of this deponent by Mr. Delespine for the purpose of filing the said claim, and was by him, this deponent, filed in the said claim before the said board of land commissioners; that the said certified copy was on the trial of the said claim before the said commissioners, proved by two witnesses, to be in the handwriting of the said Tomas de Aguilar, and to have been signed by him. This deponent further deposes, that the claim by the said Joseph Delespine, for the said land, was finally acted and decided on by the register and receiver, acting as land commissioners, as this deponent believes, in the latter part of 1828; that the said claim is one of those reported by them in January, 1829; that the said certified copy appears to have been before the said register and receiver, when they decided on the said claim, from the fact, that the translation of the certified copy is in the hand-writing of, and certified by the secretary of the board of land commissioners, whose duty it was to translate Spanish documents given in evidence before it, is now among the papers of the case, transferred to the keeper of the public archives of East Florida, agreeably to law; and, also, from the fact that the *Spanish* certificate of title is specially referred to, in the decision of the said register and receiver.

This deponent further deposes, that the said certified copy of the said concession or grant, is lost or so mislaid, that it cannot now be found; that the petition now depending in this court for the confirmation of the title to the said land was filed, as deponent believes, in the month of May, 1830; and according to the best of deponent's recollection, he first discoverd the absence of the said certified copy, from the papers in the said claim, as filed before the land commissioners, some months after the filling the present petition in this court, when he procured the papers in the said claim, and another of Mr. Delespine's, for the purpose, as well as he can now remember, of making some preparations in the said cases for trial; that on making the discovery, that the said copy was not among the papers in the case in which it should have been, he immediately communicated the same to Charles Downing, Esq. the register of lands for East Florida, and requested that a search might be made by him for it, which request this deponent has frequently repeated since; and this deponent has been informed by Mr. Downing that he has thoroughly and diligently searched for the said document, but that he has not been able to find it. This deponent further deposes, that he has frequently requested Antonio Alvarez, the keeper of the public archives of East Florida, to ascertain, if possible, whether the said certified copy was in his office, suggesting to him that it might possibly have got into some other bundle of papers, or among the papers of some other case than that to which it belonged; that to the repeated inquiries of this deponent, concerning the said document, the said Antonio Alvarez, has always informed him that he had been wholly unable to find it, though he had searched for it. This deponent also deposes, that he has searched diligently, and carefully, and repeatedly, in every place and bundle of papers in his office, in which he thought it possible it might

have been accidently placed, if it had been in the bundle of papers, belonging to the said claim when this deponent received it as aforesaid, from the office of the register and receiver, but he had wholly failed to discover it; and this deponent verily believes, it was not among said papers when he received them from the said office; and that this deponent doth not know where the said document now is. This deponent further deposes, that he has an indistinct recollection that a plat and certificate of survey of the said lands were also placed by Mr. Delespine, in the hands of this deponent, but whether the same was filed with the claim aforesaid, or not, this deponent does not now remember; but this deponent says, that they are not now in his possession, that he has searched for them also, but without finding them; that he cannot now say whether they were returned to Mr. Delespine or not, nor does he know where the same are; but they are not in his power or within his control.

JOHN DRYSDALE.

Sworn to before me, this 21st August, 1834.

K. B. GIBBS, *Clerk.*

[No. 3.]

MEMORIAL TO GOVERNOR, BY DELESPINE.

Offered and read by Claimants.

TRANSLATION.

Memorial, to his Excellency, the Governor.—Don Joseph Delespine, an inhabitant of this city, to your excellency, respectfully sheweth: That by the certificates which herewith accompany this petition, the services and merit of the petitioner are made known, which he rendered at various times, such as personal services and those procured during the revolutions of this province, without pay, rations, or reimbursments, as will be seen in certificate No 1. Secondly, the various sums of money as specified in No. 2, which sums he claims from the royal finance, for the supplies of provissions, &c. which, during the time of scarcity and danger, he imported into this city, for the supply of its garrison and public officers, &c. and thirdly, the losses which he has suffered in his property and interests, during the revolution of the years 1813 & '14, in consequence of his loyalty to the Government, according to the certificate No. 3; and as, until the present, he has received no recompense whatever for his said services, disbursements and losses, he humbly prays your excellency will be pleased to grant him, in fee simple, fifty thousand acres of land, on the west side of Indian river, or river Ys, opposite the island called Manatt's island, a favor which he prays for, from the well known justice of your excellency.

St. Augustine, April 6th, 1817.

JOSEPH DELESPINE.

DECREE OF GOVERNOR.

ST. AUGUSTINE, FLORIDA,
April 9th, 1817.

Decree.—According to the certificates which the interested presents and cites in his memorial, grant him forty-three thousand acres of land, in the place which he sets forth, without injury to a third; for which purpose, let there be given him from the Secretary's office, a certificate, which will serve him at all times as a title in form.

COPPINGER.

DON THOMAS DE AGUILAR, ensign of the army, and secretary by his Majesty of the Government of East Florida.

I certify, in the best and most ample manner, that the preceding is truly taken from the original, and in compliance with what is ordered in the foregoing superior decree. I give the present in St. Augustine, Florida, April 10th, 1817.

(Signed) THOMAS DE AGUILAR.

I certify the foregoing to be a true and correct translation from a document in the Spanish language.

F. J. FATIO, S. B. L. C.

I Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy of a document now on file in my office, to which it was transferred according to law, as part of the papers relating to private land claims in East Florida aforesaid, in the claim of Joseph Delespine *vs.* the United States, for 43,000 acres of land.

Witness my hand and seal of office, at the city of St. Augustine, Territory of Florida, this twenty-ninth day of July, A. D. one thousand eight hundred and thirty-four.

[SEAL.] ANTONIO ALVAREZ. K. P. A.

[No. 4.]

MEMORIAL FOR GRANT.

Offered and read by Claimants.

TRANSLATION.

Memorial.—To his Excellency, the Governor. Don Joseph Delespine, an inhabitant of this city, to your excellency, respectfully sheweth: That, by the certificates which herewith accompany this petition, the services and merits of the petitioner are made known which he rendered at various times, such as personal services, and those procured during the revolutions of this province, without pay, rations or reimbursements, as will be seen in certificate No. 1. Secondly, the various sums of money, as specified in No. 2; which

sums he claims from the royal finance for supplies of provisions, &c. which, during the time of scarcity and danger, he imported into this city for the supply of its garrison and public officers, &c.; and thirdly, the losses which he has suffered in his property and interests during the revolution of the years 1813 and '14, in consequence of his loyalty to the Government, according to the certificate No. 3. And, as, until the present, he has received no recompense whatever for his said services, disbursements and losses, he humbly prays your excellency will be pleased grant him, in fee simple, fifty thousand acres of land, on the west side of Indian river, or river Ys, opposite the Island, called Manatt's Island, a favor which he prays for from the well known justice of your excellency.

JOSEPH DELESPINE.—

St. Augustine, April 6th, 1817.

DECREE OF GOVERNOR.

ST. AUGUSTINE, FLORIDA,
April 9, 1817.

Decree.—According to the certificates which the interested presents and cites in his memorial, grant him forty-three thousand acres land, in the place which he sets forth, without injury to a third; for which purpose, let there be given him from the Secretary's office a certificate, which will serve him, at all times, as a title in form.

COPPINGER.

DON THOMAS DE AGUILAR, ensign of the army, and Secretary by his Majesty of the Government of East Florida.

I certify, in the best and most ample manner, that the preceding is truly taken from the original, and in compliance with what is ordered in the foregoing superior decree. I give the present, in St. Augustine, Florida, April 10th, 1817.

(Signed) THOS. DE AGUILAR.

I certify the foregoing to be a true and correct translation from a document in the Spanish language.

F. J. FATIO, S. B. L. C.

TESTIMONY OF ALVAREZ.

MICHAEL LAZARUS and others,
vs.
THE UNITED STATES OF AMERICA.

August 21*st*, 1834.

Antonio Alvarez, keeper of the public archives, sworn as a witness in open court, upon a document porporting to be a translation of the original certified copy of the memorial and grant, made by Thomas de Aguilar, brought into court by the witnesses under a subpœna *duces tecum*, issued from this court, being presented to the witness, witness states: That said translation is a part of the papers returned to

his office by the register and receiver, who acted as land commissioners in the case of Joseph Delespine for 43,000 acres of land. Witness further states, that said translation is in the handwriting of Francis J. Fatio, and certified by him, who was secretary of the said register and receiver while acting as said land commissioners. Witness further states, that the certified copy, by him, of the above mentioned translation, is truly and correctly copied from the same.

[No. 5.]

MEMORIAL OF DELESPINE TO LAND COMMISSIONERS.

Offered and read by Claimants.

TERRITORY OF FLORIDA, EAST FLORIDA.

To the honorable the Commissioners appointed to ascertain claims and titles to lands in East Florida.

The memorial of Joseph Delespine, respectfully sheweth:

That your memorialist claims title in and to a certain tract or parcel of land, containing forty-three thousand acres, situated and being in East Florida aforesaid, on the west side of the river Ys, or Indian river, opposite an island called Menitt's Island; that the said tract of land is bounded on the northeast by Indian river, and on the southwest by the waters of the river St. Johns, and was, at the time of the survey thereof, bounded on all other sides by vacant lands, as appears by the original plat thereof, herewith submitted, and marked Exhibit A; that the said tract of land was granted to your memorialist without condition, and in absolute property, by a grant, bearing date the ninth day of April, one thousand eight hundred and seventeen, by Don José Coppinger, then Governor of East Florida, as will appear by the certified copy of the said grant, herewith submitted, and marked Exhibit B; and that the said land was surveyed on the twentieth day of February, one thousand eight hundred andtwenty, by George I. F. Clarke, then the surveyor general of East Florida, as appears by the aforesaid Exhibit A.

Your memorialist further shews, that he was before, and at the date of the said grant, an inhabitant and settler of East Florida, and a subject of King of Spain; that he was also an inhabitant and settler of East Florida at the time of the cession of this Territory to the United States, and has continued to be since the said cession, and now is, such an inhabitant and settler; all which your memorialists respectfully submits.

JOSEPH DELESPINE.
By his Attorney,
JOHN DRYSDALE.

[No. 6.]

TESTIMONY TAKEN BEFORE LAND COMMISSIONERS.

Offered and read by Claimants.

JOSEPH DELESPINE
vs.
THE UNITED STATES. } For 43,000 acres of Land.

George I. F. Clarke, being duly sworn, states that about the latter end of 1817, as he thinks, he, witness, drew up a rough draft of a petition to Governor Coppinger for said Delespine, praying for lands. Does not recollect the precise quantity asked for, but believes from forty to fifty thousand acres.

By Mr. Macon. Witness states that it was a considerable time after he made out the rough draft of this memorial, that the concession was presented to him for the purpose of making the survey. Witness says he did not return a copy of the survey to the Government office, but gave one to the owner and kept one himself as was customary. Never recollects having seen the concession in the archives office. Does not ever recollect having heard Governor Coppinger or Mr. Entralgo speak of said concession.

By Mr. Blair. Witness does not know that this grant was ever made; says he made out the rough draft of the memorial, and afterwards saw a certified copy of the grant.

By Mr. Floyd. Witness says, that M. de Aguilar was the Secretary of the province.

By Mr. Drysdale. Witness states that his duty as a public officer did not lead him to a frequent inspection of the notary's office.

Mr. Macon. Witness states that the document now before the board is in the hand-writing, and has the signature of Mr. de Aguilar, to the best of his knowledge.

Mr. Alvarez, being sworn, says he was, in the year 1817, in the Government Secretary's office; says he saw a concession in the year 1817 made to Mr. Delespine; does not recollect the precise quantity granted; thinks it was between forty and fifty thousand acres; says he recollects the whole of the land prayed for was not granted. Witness states, that in the fall of 1818, as he thinks, an agent of the Duke of Alagon had, under the authority of the Governor, access to the office where the grants were kept, for the purpose of making a register of the grants of land, and establish a kind of office; and had full possessiou and control of all the grants in the office. Witness says, that the name of the Duke of Alagon's agent was Don Nicholas Granido; and that one Don Antonio Cuartero assisted him; says that said Cuartero came to this city with Garrido. They were both from old Spain.

Witness says, that the Secretary Aguilar objected to Ganido's having access to the papers of the office, and offered to furnish him with a register, which he objected to; and he, Granido, applied to

the Governor who granted him the permission to make the register. Witness further states that these persons were in the habit of frequenting the office for the space of about three months, as he thinks, for the aforesaid purpose. Witness states that the certified copy of the original grant, presented to the board, is in the hand writing of Mr. de Aguilar; and that he is well acquainted with his hand writing.

Mr. Macon. Witness says that he has seen the concession made to Mr. Delespine, and that it was signed by Governor Coppinger. Witness states that said concesssion was made in 1817.

By Mr. Drysdale. Witness states that he has been a clerk in the Government Secretary's office, from the year 1807 to the change of flags.

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct extract, from a book entitled, "Testimony taken before the board of land commissioners, for the district of East Florida, 1824. No. 1." Which book is now on file in my office according to law.

Witness my hand and seal of office, at the city of St. Augustine, Territory of Florida, this 29th day of July, A. D. 1834:

[SEAL.] ANTONIO ALVAREZ,
K. P. A.

[No. 7.]

DEPOSITION OF ALVAREZ.

Offered and read by Claimants.

In the Superior Court—In Chancery.

MICHAEL LAZARUS, AND OTHERS *vs.* THE UNITED STATES. } Pet. for conf. of title to 43,000 acres of Land.

Interrogatories to be propounded to Antonio Alvarez, as witness, to be produced, sworn, and examined, on the part of the petitioners in the above cause, before Elias B. Gould, Esquire, a justice of the peace for the county of St. Johns.

First. Were you or not a clerk in the Government Secretary's office, during the Spanish Government in East Florida, for many years? If you were, please to state how long you acted as such in said office, and particularly whether you did so in the year 1817.

Second. Were or were not the originals of concessions of land made and kept in a certain office in East Florida, according to the practice of the Spanish Government in that province, and certified copies of the same delivered to the grantees? If such was the practice, please to state in what office they were made and kept, and what officer was authorized to deliver such certified copies, and what officer was authorized to certify the said copies.

Third. Who was the Secretary of the Government during the year 1817?

Fourth. Who was the Secretary of the Government from the year 1817, until the cession of the Floridas to the United States?

Fifth. If you state that Thomas de Aguilar was the Secretary of the Government in 1817, please to state how long before that period he had filled said office.

Sixth. Have you any recollection of having seen, while you were in the Government Secretary's office, an original concession of land, made in 1817, to Joseph Delespine of this city? If you answer affirmatively, please to state whether the said concession was in the Government Secretary's office when you saw it, or where else it was; and the quantity of land which was granted by it, and where situated, and whether all the land prayed for by the said Delespine was granted or not; and by whom the concession was made?

Seventh. Are you or not acquainted with the hand-writing of Thomas de Aguilar who was Secretary of the Government of East Florida, at the cession thereof to the United States? If you are, state how long you have known it.

Eighth. Do you or not remember having been examined as a witness for the aforenamed Joseph Delespine, in a claim of the said Deplespine, before the board of land commissioners, for a large tract of land, granted to the said Delespine on Indian river? If you do, be pleased to state whether the said claim, in which you were so examined as a witness, was or was not for the same land concerning which you testified in answer to the sixth interrogatoy preceding.

Ninth. If you do remember having been examined as a witness in the said claim, referred to in the next proceedings interrogatory, be pleased to state whether a certain document purporting to be a copy of a concession of the lands claimed by the said Joseph Delespine, in the said claim, and purporting to be certified as a true copy by the aforenamed Thomas de Aguilar, as Government Secretary, was produced to you? If such a document was produced to you, state whether it was or was not a copy of a concession of lands to the said Joseph Delespine; the quantity of land granted by it; where they were situated; by what governor the concession was made; in what year the concession was made; and whether the said copy was or was not regularly certified as a copy; by whom it was so certified; and whether the signature of Thomas de Aguilar to the said copy was or was not in the proper hand writing of Thomas de Aguilar, the Government Secretary; and whether it was certified in the usual form and manner practised by the Government Secretary in like cases?

Tenth. Was there or not a certain proper officer in which concescessions of lands in East Florida were made and kept under the Spanish Government? If yea, what officer was it? and who was the keeper of it?

Eleventh. Was or was it not the practice of the Spanish Government in East Florida, to retain in some certain office all original con-

cessions of land in East Florida, and to give to the grantees thereof certified copies of the same? If yea, in what office?

Twelfth. What officer was authorized to give such copies?

JNO. DRYSDALE,
Attorney for the petitioners.

The claimants in the above entitled cause, will please to take notice, that the respondents, by their solicitor, object to all the above interrogatories, because they are leading, irrelevant and illegal; and farther, to the 6th, 7th, 8th and 9th: because the complainants attempt thereby to establish and prove the contents of certain written documents without producing said documents, or in any manner accounting for their absence; and to the 9th, because the complainants attempt thereby to establish and prove the contents of a pretended copy of a certain written instrument, without producing the original, or accounting for its absence. and also, without producing (or accounting for the absence of) such pretended copy.

THOS. DOUGLAS,
United States Attorney, &c.

SUPERIOR COURT, *District of East Florida:*

MICHAEL LAZARUS and others
vs.
THE UNITED STAES. } Claim for 43,000 acres of Land.

The answer of Antonio Alvarez to the interrogatories propounded to him in this case, being first duly sworn.

To the first interrogatory. Witness answers, that he was clerk in said office for many years. He acted from the year 1807, with two intervals of about a year each in 1810 and 1814, until the transfer of the country to the United States. He was in the office during the year 1817.

Second. To the first part of this interogatory, witness answers, that the concessions were kept in a certain office, according to the practice aforesaid, and certified copies were delivered to grantees. The concessions were made and kept in the Secretary's office, from which office certified copies were delivered, and the Secretary was authorized to certify such proceedings or copies.

Third. De Aguilar was secretary during the year 1817.

Fourth. Thomas de Aguilar filled the office of secretary from about the year 1810 until the cession of the country.

Fifth. Already answered.

Sixth. Witness recollects of seeing such a concession as is referred to in this interrogatory. He saw it in the Government Secretary's office. Does not recollect the quantity of land contained in the concession; neither does he recollect where it was situated. He does not think that all the land prayed for was granted. The concession was made by Coppinger.

Seventh. Witness states that he is acquainted with the handwriting of said Aguilar. He has known it since 1807.

Eighth. Witness recollects testifying before the board of land commissioners in a claim for land, in which Delespine was interested, and he believes it to be the same that he now claims.

Ninth. Witness says that when he testified as aforesaid, he recollects of seeing a copy of a concession for land in favor of said Delespine, which was certified by the said Thomas de Aguilar as Government Secretary. It was presented to him for the purpose of identification, while he was before the said board. He cannot recollect the quantity granted, nor where they were situated; the quantity claimed was 43,000 acres. The concession was made by Coppinger, in the year 1817. The copy was regularly certified by Thomas de Aguilar, in his own proper handwriting, as Government Secretary, in the usual form and manner practised by Spanish Government Secretary in such cases.

Tenth. There was a distinct office under the Spanish Government, in which concessions of land were kept. They were kept in the Government Secretarys office. Thomas de Aguilar kept the office.

Eleventh. Witness answers to this interrogatory, that it was the practice, and that the Secretarys office was the proper office.

Twelfth. The Secretary of the Government was authorized to give such copies.

ANTONIO ALVAREZ.

E. B. GOULD, Presiding Justice, St. Johns county.

[No. 8.]

DEPOSISION OF JNO. M. FONTANE,

Offered and read by Complainants.

MICHAL LAZARUS, ENOCH WESWALL & JOHN DRYSDALE, *vs.* THE UNITED STATES,	Petition for confirmation of title to 43,000 acres of Land. In the Superior Court.

Interrogatories to be propounded unto John M. Fontane, a resident of the city of St. Augustine, and who is to be produced, sworn and examined, before the honorable Elias B. Gould, judge county court, as a witness on behalf of the petitioners.

First. Were you or not acquainted with Mr. Joseph Delespine, late of the city of St. Augustine, deceased, in his life time? Are you not acquainted with his widow? Is she not a relative of yours?

Second. Are you or not a native Floridian, and well acquainted with the Spanish language.

Third. Have you or not, been recently requested by one of the petitioners in this case to procure permission from Mrs. Delespine to search among the papers of her late husband, for the purpose of ascertaining whether there was among them a copy of a memorial and concession in favor of the said Joseph Delespine, for 43,000 acres of

land on Indian river, in the Spanish language, certified, by Thomas de Aguilar, as Secretary of the Spanish Government of East Florida, or a plat and certificate of survey of said lands, or any other document relating to the said concession; and were you or not requested to inquire of Mr. Delespine, whether she knew any thing of said documents? Be pleased to state fully whether you complied with the said request; what you did in consequence thereof, and whether you discovered any documents or papers, and what relating to the said lands; and whether Mrs. Delespine has any knowledge of the existence of any document relating to them?

Fourth. Are you or not well acquainted with the hand writing of the said Thomas de Aguilar, who was the Secretary of the Spanish Government of East Florida at the time of the cession thereof to the United States, and for many years before?

JNO. DRYSDALE,
Sol. for Petitioners.

The foregoing interrogatories may be answered, subject to all legal and proper exceptions, hereafter to be made and taken to them, and to the answers which the said witness may give thereto, &c.

ALLEN,
For United States.

SUPERIOR COURT, *District of East Florida.*

MICHAEL LAZARUS, ENOCH WESWALL, & JOHN DRYSDALE, *vs.* THE UNITED STATES.	Land claim 42,000 acres. In Chancery.

The answers of John M. Fontane, to the interrogatories, and cross-interrogatories propounded to him in the above case, as hereunto annexed.

ANSWERS TO INTERROGATORIES.

To the first interrogatory: Witness answers in the affirmative.

Second. To this he answers, I am a native Floridian, and am pretty well acquainted with the Spanish language.

Third. To this he answers, I have recently examined the papers of the deceased, for the purpose of obtaining the copy of a concession in favor of the deceased for forty-three thousand acres of land on Indian river, as is set forth in said interrogatory; and that he was not able to ascertain or find among said papers the said copy of concession or the plat of survey of the same, and he understood from Mrs. Delespine, that she heard her husband say, in his life time, that they had been filed before the land commissioners, and that they had been lost or mislaid, and could not be found. I am acquainted with the hand writing of Thomas de Aguilar. He was acquainted with it at the time of the cession in 1821, and previous thereto.

JOHN M. FONTANE.

TERRITORY OF FLORIDA,
County of St. Johns.

I certify that I have carefully examined John M. Fontane, who is named in the annexed interrogatories, as a witness on behalf of the claimant, after being duly sworn; and the above contains the answers of the said witness thereto.

Given under my hand at St. Augustine, the 12th August, 1834.

E. B. GOULD, Judge,
County Court, St. Johns county.

[No. 9.]

DEPOSITION OF GEO. I. F. CLARKE.

Offered and read by Claimants.

MICHAEL LAZARUS, and others *vs.* THE UNITED STATES.	Claim for confirmation of title to 43,000 acres of Land. In the Superior Court for the Eastern District of Florida.

Interrogatories to be propounded unto George I. F. Clarke, a witness to be produced, sworn and examined, on the part of the claimants in the above cause, before Elias B. Gould, Esquire, as justice of the peace for St. Johns county.

First. Were you or not, acquainted with Joseph Delespine, at present of the city of St. Augustine, in and about the year 1817?

Second. Do you know any thing of the said Joseph Delespine's having presented a memorial to the Governor of East Florida, for a grant of land on Indian river, in East Florida? Do you know any thing of the drawing of such a memorial for the said Delespine? If you do, be pleased to state all you know and recollect of the drawing of such memorial for the said Delespine, and of the presenting it to the Governor, the time at which it was drawn and presented, and the quantity of land prayed for by the said memorial, and all circumstances that you can state concerning it.

Third. Do you know whether the lands prayed for by the said Joseph Delespine, in the said memorial, or any part of them, were granted?

Fourth. Did you ever servey any lands for the said Joseph Delespine on Indian river? If you ever did, please to state what lands were surveyed by you for him, and upon what authority you did so, and whether you were or were not the surveyor general of East Florida, at the time you made said survey, if you ever made such?

Fifth. If you ever surveyed any lands for the said Joseph Delespine on Indian river, be pleased to state as nearly as you can the quantity surveyed by you for him.

Sixth. According to the practice of the Spanish Government, and the regulations by which the surveyor general of East Florida was governed while you held that office, was or was not the exhibition of a regularly certified copy of a grant of land and a request by the grantee to the surveyor general, that he would survey the land granted, a sufficient authority to the surveyor general, to make the survey requested.

Seventh. If you ever surveyed any lands for Joseph Delespine, originally granted to him on Indian river, and if you make such survey upon the authority of a certified copy of the grant, be pleased to state by whom such copy was certified, and whether the individual who certified it was the officer regularly authorized to do so.

Eighth. Was or was not Thomas de Aguilar, the Secretary of the Government at the time of the cesston of East Plorida to the United States? If he was so, be pleased to state how long he had held that office.

Ninth. Do you or not know the handwriting of the said Thomas de Aguilar? If you do, state how long you have known it.

Tenth. Do you or not remember having been examined as a witness on behalf of the said Joseph Delespine, before the late board of land commissioners, appointed to ascertain claims and titles to lands in East Florida, in a claim of the said Delespine for the lands herein before referred to, on Indian river?

Eleventh. If you do remember to have been examined as a witness in said claim, do you or not recollect to have seen on said occasion, and to have given testimony concerning a certain document filed in the said cause, purporting to be a copy of a grant or concession of the lands claimed by the said Delespine and purporting to be certified by the aforenamed Thomas de Aguilar as Secretary of the Government? If you do, be pleased to state whether you now recollect the document referred to, and be pleased to state what said document was, according to your present recollection of it; whether it was certified to be a true copy from the original, and by whom it was certified, and whether the name of Thomas de Aguilar, was or not subscribed to the certificate in the proper handwriting of the aforenamed Thomas de Aguilar, Secretary of the Government; and be pleased also to state whether the said copy was or nor made out and certified in the manner and form usually practised by the Government Secretary in making certified copies of grants or concessions.

Twelfth. In what office, during the Spanish Government in East Florida, were grants or concessions, not being royal titles, kept, and what office was authorized to give copies of them?

Thirteenth. If there be any other matter or thing which will be beneficial to the petitioners in this cause, within your knowledge touching the premises, be pleased to state the same fully.

JOHN DRYSDALE.
Pet'rs. Solicitor.

The complainants in the above entitled cause, will please to take notice, that the respondents, by their solicitor, object to all the above interrogatories, except the first and last because they are leading irrelevant and illegal, and particularly to the 2d, 3d, 4th, 5th, 6th, 7th, 10th, and 11th, because the claimants attempt thereby to establish the existance and prove the contents of certain written instruments, without producing those instruments, or in any way accounting for their absence; and further, to the 11th, because the complainant attempt thereby to establish and prove the contents of a pretended copy of a

certain instrument, without producing the original, or accounting for its absence; and also without producing or accounting for the absence of such pretended copy; and to the 5th and 6th, because if the witness ever surveyed any lands for the said Joseph Delespine, as surveyor general under the Spanish Government, the matters, about which inquiry is made by these interrogatories, ought to be proved by other and higher evidence than the statements of the witness, to wit, by the production of the written instructions to said witness, as surveyor general, and the production of the survey itself, and of the concession or title, (if any such there was,) without which concession or title such survey could not legally have been made.

THOS. DOUGLAS,
United States Attorney, &c.

Superior Court for the District of East Florida.

MICHAEL LAZARUS, and others
vs.
THE UNITED STATES.
} Claim for conformation of title to 43,000 acres of Land.

The answer of the witness George I. F. Clarke, to the annexed interrogatories; he being first duly sworn.

To the first interrogatory, witness answers, that he is acquainted with Joseph Delespine. He knew him before the year 1817.

Second. Witness says that he drew the rough draft of a memorial for the said Delespine, to be presented to the Governor in the latter part of 1817, but he does not recollect exactly the amount, but thinks about forty thousand acres. Sometime afterwards, a certified copy of the proceedings upon the said memorial, together with a copy of the said memorial, was handed to witness in his official character, as surveyor general, for the purpose of locating the land described in said memorial and proceedings. The above paper or copy was certified under the signature of Thomas de Aguilar, from whose office such copies always issued, and who was the Secretary of the province.

Third. Witness believes the lands prayed for were granted, and he surveyed the lands conformably to the contents of the document which he received, which he believed to be genuine.

Fourth. That the lands, referred to, in his answer to the third interrogatory, are the same which are referred to in this interrogatory. The lands surveyed were situated on Indian river; witness was surveyor general at that time.

Fifth. Witness thinks the survey contained forty-two or three thousand acres.

Sixth. Witness answers: No.

Seventh. The paper spoken of in this interrogatory was certified by Thomas de Aguilar, who was duly authorized to certify such proceedings.

Eighth. Witness answers, that Aguilar was at the time of the transfer of the country to the United States, Secretary of Government, and had held that office for many years previous to that time.

Ninth. Witness answers: That he knows the hand-writingof Aguiar, and has known it for many years.

Tenth. Witness answers: Yes.

Eleventh. Witness answers: That to the best of his knowledge, and belief, all the matters inquired of in this interrogatory are true.

Twelfth. In the Secretary's office; and the Secretary was authorized to give copies.

Thirteenth. Witness does not recollect further.

GEO. I. F. CLARKE.

Sworn to before me the 15th May, 1832,

E. B. GOULD, Presiding Justice, St. Johns county.

[No. 10.]

Being the testimony of Antonio Alvarez, taken under commission issued from this court, and duly returned in the case of John Breward *vs.* the United States, and offered and read in evidence in this cause on the part of the claimants, the same being so copied as to be made applicable to this case, to wit:

TESTIMONY OF ALVAREZ IN BREWARD' CASES.

District of East Florida—Superior Court. St. John's county.

THE UNITED STATES *ads.* MICHAEL LAZARUS, AND OTHERS. } Land claim, 43,000 acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, a witness, to be sworn and examined, on behalf of the United States, before Elias B. Gould, and John C. Clelland, Esquires.

First. Are you a native of East Florida or not?

Second. What is your age?

Third. How long have you resided in the city of St. Augustine, in East Florida?

Fourth. Did you hold any office in East Florida before the transfer of that province to the United States? If you did, please to state what office, and when and how long you discharged the duties of such office.

Fifth. Did you at any time act as clerk in the Governor's Secretary office, or in the office of the escribano, or not? If you did, please to state which, when, and how long.

Sixth. In what office were concessions of land made and kept, in East Florida, before the transfer of that province to the United States?

Seventh. In what office were royal titles, (real titles,) made and kept in East Florida, before the transfer of said province to the United States?

Eighth. In what office should the papers now be found deposited, which are referred to in the 6th and 7th preceding interrogatories? Is

or is not the public archives the proper place of deposit for such papers?

Ninth. Are you the keeper of the public archives of East Florida, or not? If you are, please to state how long you have held said office.

Tenth. Is there any original grant or concession to Joseph Delespine, for the above mentioned 43,000 acres of land, on file in said archives, or not?

Eleventh. Please to name the several persons who held and exercised the office of Governor of the province of East Florida, between the years 1784 and 1821; and the time when each of said persons entered upon the discharge of his duties as such Governor, and when they respectively ceased to discharge the said duties.

Twelfth. Is there any order on file in the said archives, under your charge, from the King of Spain, or from the council of the Indies, requiring said Governor to render an account of his administration, during the time when he held and discharged the duties of said office as Governor as aforesaid? If there is, please state to which of said Governors said order was directed, and annex to your answer a copy thereof.

Thirteenth. Were any of said Governors ever required to render such account? If yea, state which of them.

Fourteenth. Did any one of said Governors ever render such an account? If they did, please state which of them, when it was made, and *particularly* whether such account contained a statement of the number of grants or concessions of land made by said Governors during such administration, with the name, (or names,) of each grantee, (or grantees,) and the number of acres of land granted to each.

Fifteenth. Is there any copy of such an account made by any of said Governors now on file in the archives under your charge? If there is, please annex a copy thereof to your answer.

Sixteenth. Did any of said Governors ever undergo a residencia in said province? If yea, which of them, and when.

Seventeenth. Did any of said Governors ever render any account to the King, Captain General Intendant of Cuba, or any other officer, of the lands granted by him, except the single case of the exchange of lands for a vessel, with Juan Russel, or not? If they did, please to state which of them, and of what said account consisted, and state also the particulars of the case of Juan Russel.

THOMAS DOUGLAS,
U. States Attorney.

Cross Interrogatories.

First. Had the grantee, in case of grant or concession, any right to, or control over, the possession of the grant or concession deposited in the office of the Secretary of Government, and of which the grantee received a counterpart certified by the Secretary?

Second. Is not the case of John Russel a matter of record in your office, and are not all the proceedings set forth in writing thereon.

Superior Court—District of East Florida.

THE UNITED STATES *ads.* MICHAEL LAZARUS, AND OTHERS. } Land claim, 43,000 acres.

The answers of Antonio Alvarez to the interrogatories and cross interrogatories hereunto annexed, taken before the commissioners appointed for that purpose. Taken in behalf of the United States.

ANSWER TO DIRECT INTERROGATORIES.

To the first interrogatory, witness answers: I am a native of East Florida.

Second. To this, he answers: My age is forty-two years.

Third. To this, he answers: St. Augustine has always been my residence; I was absent for some time in 1809 and 1810 in the Havana.

Fourth. To this, he answers: I was clerk in the Government secretary's office, from 1807 to the change of Government; during which time I was absent in the year 1809 and part of 1810, and parts of 1814 and 1815.

Fifth. To this, he answers: I was clerk in the Government secretary's office, as stated in the preceding answer; I also acted as clerk in the office of the escribano for a few months in the year 1814.

Sixth. To this, he answers: Concessions of land were made and kept in the office of the Secretary of the Government.

Seventh. To this, he answers: Royal or real titles were made and kept in the office of the escribano.

Eigth. To this, he answers: The proper place for the deposit of such papers, is the office of the public archives.

Ninth. To this, he answers: I am the keeper of the public archives, and I have held the office since 1829.

Tenth. To this, he answers: There is no original grant to Joseph Delespine on file in the office of the public archives.

Eleventh. To this, he answers: Tespedes, from 1784 to 1790; Quesada, from 1790 to 1796; White, from 1796 to 1811; Estrada, from 1811 to June, 1812; Kendelain, from 1812, I believe, to May, 1815; Estrada, the balance of 1815; and Coppinger, from 1816 to the change of flags. My knowledge of the time of the government of Tespedes and Quesada, is derived from the information I obtained in the office of the Secretary of that Government.

Twelfth. To this, he answers: I know of no such order.

Thirteenth. To this, he answers: I know of none.

Fourteenth. To this, he answers: None of the governors made such account.

Fifteenth. To this, he answers: There is no such document on file in my office.

Sixteenth. To this, he answers: I know of no governor of East Florida who underwent any such *residencia.*

Seventeenth. To this, he answers: The governors of East Florida never rendered any account of the lands granted by them, except in the case of the exchange of four thousand acres of land for a schooner, with John Russell.

ANSWERS TO CROSS INTEROGATORIES.

First. To this, he answers: The grantee had no right or control over the original.

Second. To this, he answers: I answer in the affirmative.

ANTONIO ALVAREZ.

TERRITORY OF FLORIDA, *County of St. Johns, ss.*

We, whose names are hereunto subscribed, commissioners named in the annexed commission, do certify, that, after being sworn ourselves, we did examine the witness, named in said commission, under oath, and his answers to the interrogatories and cross interrogatories annexed to said commission, are truly, and correctly herein set forth. Given under our hands, at St. Augustine, the 6th August, 1834.

JOHN C. CLELAND,
E. B. GOULD,
Commissioners.

[No. 11.]

DEED FROM DELESPINE TO LAZARUS.

Offered and read by Claimants.

THE STATE of SOUTH CAROLINA.

Know all men by these presents, that I, Joseph Delespine, of the city of St Augustine, in East Florida, but at present in Charleston, in the State aforesaid, for and in consideration of the sum of ten thousand dollars, to me in hand paid by Michael Lazarus, of Charleston, in the State aforesaid, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell, and release, unto the said Michael Lazarus, one undivided half part of two certain pieces or parcels of land, situate, lying, and being, on the river Ys, alias Indian river, in the province of East Florida, containing forty-three thousand acres of land, be the same more or less; the largest of which tracts contains forty-one thousand acres of land, and lies opposite Menitt's island; the other tract contains two thousand acres of land, and lies at the north head of said river; and which said forty-three

thousand acres, was granted to me on the ninth day of April, one thousand eight hundred and seventeen, by the Spanish Government of East Florida; and, for a more particular description, reference may be had to plans of the same in my possession; together with all, and singular, the rights, members, hereditaments, and appurtenances, to the said premises belonging, or in anywise incident or appertaining. To have and to hold all, and singular, the premises before mentioned, unto the said Michael Lazarus, his heirs and assigns, forever. And I do hereby bind myself, my heirs, executors and administrators, to warrant and forever defend all and singular the said premises, unto the said Michael Lazarus, his heirs and assigns, against myself, and my heirs, and all other persons lawfully claiming, or to claim the same, or any part thereof.

Witness my hand and seal, this twenty-eighth day of February, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-sixth year of the independence of the United States of America.

JOSEPH DELESPINE. [SEAL.]

Signed, sealed and delivered in the presence of
JO. MOISE,
JOHN T. WILLERS.

STATE OF SOUTH CAROLINA,
City of Charleston.

Personally appeared before me, Joseph Delespine, and acknowledged the signature on the other side to be his proper handwriting; and John T. Willers, one of the subscribing witness, did also appear before me, and solemnly swore, that Joseph Delespine did sign, seal, and as his act and deed, deliver this instrument of writing, declaring it to be intended for the purposes therein stated, and that Jo. Moise did, in his presence, subscribe the same as a witness thereto.

JOHN T. WILLERS.

In testimony whereof, I, Peter Trezrant, notary public and justice of the quorum, duly commissioned and sworn, residing and practising in the city and State aforesaid, have hereunto set my hand and affixed my seal, notarial, this first day of March, 1822, and forty-sixth year of the independence of the United States of America.

[SEAL.] PETER TREZRANT,
Notary Public, and Justice of the Quorum.

Recorded in my office, this 26th day of March, 1822, in Liber B, folios 56 and 57.

EDMUND LAW, Alcalde.

[No. 12.]

DEED FROM DELESPINE TO WESWALL.

Offered and read by Claimants.

This indenture, made the seventeenth day of December, in the year of our Lord, one thousand eight hundred and twenty-seven, between Joseph Delespine, of St. Augustine, in the Territory of East Florida, merchant, of the first part, and Enoch Weswall, of the city of New York, in the State of New York, broker, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of the United States of America, to him in hand paid, at or before the ensealing and delivery of these presents, by the said party of the second part, the receipt whereof is hereby acknowledged, and the said party of the second part, his heirs, executors, and administrators, forever released and discharged from the same, by these presents, hath granted, bargained, sold, aliened, remised, released, enfeoffed, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, enfeoff, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all that certain piece, parcel, or tract of land situate, lying and being, (twenty-eight degrees fifteen minutes north latitude,) and parcel of a certain tract of land, situated in the Territory of Florida, aforesaid, fronting east-eastwardly on the Indian River, and westwardly in the rear by the little river St. Sabastian, and westwardly of Cape Canarveral, granted by Don Jose Coppinger, formerly Governor of East Florida, on the ninth day of April, one thousand eight hundred and seventeen, to the said Joseph Delespine. And the piece and parcel of the said tract of land hereby released and conveyed, or mentioned, or intended so to be, are to be divided off and from the above tract of land, and to be of the quantity of eighteen thousand four hundred and fifty acres of land, together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and the reversions, remainder and remainders, rents, issues and profits thereof; and also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law, as in equity, of the said party of the first part, of, in, or to the same, and every part and parcelt hereof, with the appurtenances: To have and to hold, all and singular the premises above granted and described, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever. And the said Joseph Delespine, for himself, his heirs, executors, and administrators, for each and every of them, doth covenant, promise, and agree to, and with the said party of the second part, his heirs and assigns, by these presents, that the said party of the first part, hath not made, done, committed, executed or suffered any act or acts, thing or things, whatsoever, whereby, or by means whereof, the said above mentioned and described premises, or any part thereof, now are, or at any time hereafter, shall or may be impeached, charged or incumbered, in any manner or way whatsoever.

In witness whereof, the said party of the first part, hath hereunto set his hand and seal, the day and year first above written.

JOSEPH DELESPINE. [SEAL.]

Sealed and delivered in the presence of
ELIAS T. NEXSEN,
ROBERT L. WILSON.

CITY AND STATE OF NEW YORK, ss.

On the 18th day of December, in the year one thousand eight hundred and twenty-seven, personally appeared before me, Joseph Delespine, to me known to be the person described in, and who executed the within indenture, and acknowledged that he executed the same, for the uses and purposes therein mentioned. I do therefore allow the same to be recorded.

FREK. A. TALLMADGE,
Commissioner authorised to take the acknowledgment of deeds, &c.

NEW YORK, ss.

I, Smith Thompson, one of the judges of the Supreme Court of the United States, do certify that Joseph Delespine, the grantor in the within deed personally appeared before me, on the eighteenth day of December, in the year one thousand eight hundred and twenty seven; that I have satisfactory evidence that he is the person described in, and who executed the said deed, by the oath of Peter McIntyre, of the city of New York, to me well known, who being duly sworn, deposes and says, he is personally acquainted with the said Joseph Delespine and knows him to be such person; that, thereupon, the said Joseph acknowledged before me, that he executed said deed for the uses and purposes therein mentioned. All which is satisfactory evidence to me of the due execution of said deed.

SMITH THOMPSON.

TERRITORY OF FLORIDA, *County of St. Johns.*

Know all men by these presents, that I, Frances Delespine, wife of Joseph Delespine, party to the annexed deed, for, and in consideration of the sum of one dollar, lawful money of the United States, to me in hand paid, (the receipt whereof is hereby acknowledged by the party of the second part to the annexed deed,) do by these presents renounce, relinquish, and forever release all my right title, interest and dower, in and to the premises mentioned in the annexed deed.

Witness my hand and seal, at St. Augustine, this 20th day of March, A. D. 1829.

FRANCES DELESPINE. [SEAL.]

Witness: S. STREETER.

TERRITORY OF FLORIDA, *County of St. Johns.*

Personally appeared before me, S. Streeter, a justice of the peace, in and for the said county, Frances Delespine, wife of Joseph Deles-

pine, mentioned in the annexed deed, who being privately examined by me, separate and apart from the husband, and acknowledged and declared, that the above relinquishment and renunciation of dower by her, was made freely and voluntarily, and without any compulsion, constraint, apprehension or fear from her said husband. This, done before me, at the city of St. Augustine, this 20th day of March, A. D. 1829.

S. STREETER,
Justice of the Peace.

TERRITORY OF FLORIDA, *County of Musquito.*

Recorded in book No. 2, pages 59, 60, 61, 62 and 63, this twenty-fifth day of April, one thousand eight hundred and twenty-nine by

JAMES ORMOND,
C. C. C. M.

[No. 13.]

DEED FROM DELESPINE TO DRYSDALE.

Offered and read by Claimants.

TERRITORY OF FLORIDA.

This indenture made the thirty-first day of October, in the year of our Lord one thousand eight hundred and twenty-four, between Joseph Delespine, of the city of St. Augustine, in the Territory aforesaid, of the one part, and John Drysdale, of the same city, of the other part, witnesseth: That the said Joseph Delespine, for and in consideration of the sum of seven thousand dollars, good and lawful money of the United States, to him, by the said John Drysdale, well and truly paid at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, remised, released, and confirmed; and by these presents doth grant, bargain, sell, alien, remise, release, and confirm, unto the said John Drysdale, his heirs and assigns forever, all those the following undivided tracts, pieces, or parcels of land, situated and being in East Florida; that is to say, one undivided tenth part of all that certain tract, piece, or parcel of land situated, lying, and being in East Florida aforesaid, on the west side of the river Ys or Indian river, and opposite to Menitt's Island, in the said river, and extending to the west and south to the waters of the river St. Johns, and containing forty-three thousand acres; which said tract of land was originally granted to the said Joseph Delespine in absolute property by a grant or concession bearing date the ninth day of April, one thousand eight hundred and seventeen, by Don Jose Coppinger, then the Governor of East Florida aforesaid, and was surveyed by George I. F. Clarke, the late surveyor general of the Spanish Government, as appears by the plat and certificate of survey of the said land, bearing date the twentieth of February, one thousand

eight hundred and twenty, made and signed by the said George I. F. Clarke; the following being the lines and dimensions of the said tract of land, according to the said survey and plat of the said George I. F. Clarke, viz: the first line begins at a palmetto tree on the bank of the river Ys, or Indian river; runs thence south sixty-five degrees, west five hundred and seventy-four chains to a stake on the bank of the waters of the river St. John; thence, along the bank of the said river to another stake, fixed at a distance from the first mentioned stake parallel with the termination of the second line, which second lines commences at the palmetto tree at which the first line begins, and runs thence along the bank of the said river Ys, or Indian river, south twenty-five degrees, east six hundred and forty chains, to another palmetto tree, on the bank of the said river; the third line runs thence south sixty-five degrees west to the stake secondly above mentioned, on the bank of the waters of the St. Johns; and also, one undivided tenth part of all that certain other tract, piece, or parcel of land, consisting of two leagues square to each cardinal point of the compass, or ninety-two thousand one hundred and sixty acres; situated, lying, and being in East Florida aforesaid, about two miles to the north of the river Miamies, which lies to the northwest of Cayo Biscayno, and near Cape Florida; which said tract, piece, or parcel of land was granted in absolute property to one Juan de Arrambide, by a grant bearing date on or about the twenty-second of March, one thousand eight hundred and fourteen, by the lawful authorities of the then province of East Florida, in conjunction with and founded upon the previous resolution and order of the Captain General of the Island of Cuba, and of the provincial deputation of the said Island, for the distribution of the public lands in the said Island and the two Floridas, that a grant in absolute property should be made to the said Juan de Arrambide of two leagues to each cardinal point of the compass of any land he might choose between the mouth of New river, and Punta Larga on the south, following the same course along the seashore. And, also, one undivided tenth part of a certain other tract, piece, or parcel of land, consisting of four miles square, or ten thousand two hundred and forty acres, situated, lying, and being in East Florida aforesaid, on the northwest head of the river Ys, or Indian river; which said last mentioned tract of land was originally granted in absolute property to one Pablo F. Fontane, on the tenth day of November, one thousand eight hundred and seventeen, by Don Jose Coppinger, than the governor of East Florida, and by the said Pablo F. Fontane sold and conveyed to the said Joseph Delespine; together with all and singular the hereditaments, privileges, rights, members, and appurtenances to the said several parcels of land hereby granted and released, or intended so to be, and every of them belonging, or in any wise appertaining; and the reversion and reversions, and remainder and remainders, rents, issues, and profits thereof, and of every part thereof; and all the estate, right, title, claim, and demand of every kind whatever of the said Joseph Delespine, of, in, to, and upon the said several parcels of land, so hereby granted and released, or intended so to be as aforesaid, and the appurtenances: To

have and to hold all and singular the aforesaid three several pieces or parcels of land, and all and singular other the premises hereby granted, sold, and released, or so intended to be, unto the said John Drysdale, his heirs and assigns forever, and to his and their use and behoof forever.

In witness whereof, the parties to these presents have hereunto set their hands and seals, the day and year first above written.

JOSEPH DELESPINE. [SEAL.]

Sealed and delivered in the presence of us,
JOHN ALDEN,
ELIAS WALLEN.

TERRITORY OF FLORIDA, *St. Johns County, ss.*

Be it remembered, that on this ninth day of November, A. D. 1824, John Alden, a subscribing witness to the foregoing instrument of writing, came before me, the subscriber, clerk of the county court for the county aforesaid, and made oath that Joseph Delespine acknowledged the above in his presence to be his act and deed for the purposes therein mentioned; whereupon, I have recorded the same.

Witness my name the day and date above written.

JAMES S. TINGLE, Clerk.

TERRITORY OF FLORIDA.

Know all men by these presents, that I, Frances Delespine, the wife of Joseph Delespine, of the city of St. Augustine, and who is a party to the aforegoing deed of indenture, for and in consideration of the sum of ten dollars, to me in hand well and truly paid by John Drysdale, also of the city of St. Augustine, and who is also a party to the said deed of indenture, have granted, remised, released forever quit claimed and confirmed, and by these presents do grant, remise, release, and forever quit claim, and confirm unto the said John Drysdale, and to his heirs and assigns forever, all my estate, right, title, interest, claim, and demand, of every kind whatsoever, both at law and in equity; and also, all the estate, right, title, interest, claim, and demand, of every kind whatsoever, both at law and in equity, to which I may, can, or shall at any future time be entitled, in whatever way or manner, or by whatever means the same may accrue to me as the wife of the said Joseph Delespine; and I do further by these presents, release, renounce, relinquish,and forever quit claim unto the said John Drysdale, and to his heirs and assigns forever, all and all manner of dower, right, title, and claim of dower which I have, and to which I shall, may, or can at any time hereafter have or make of, in, to, out, of, or upon the lands and tenements in and by the aforegoing indenture conveyed, granted, and released to the said John Drysdale, or intended so to be thereby.

In witness whereof, I have hereto set my hand and seal, the eighteenth day of December, one thousand eight hundred and twenty-four.

FRANCES DELESPINE. [SEAL.]

Sealed and delivered in the presence of us,
JOHN M. SANCHEZ,
FRANCIS R. SANCHEZ.

TERRITORY OF FLORIDA, *City of St. Augustine.*

I, Frances Delespine, the wife of Joseph Delespine, of the aforesaid city of St. Augustine, do by these presents declare and make known, that the renunciation and relinquishment into, out of, and upon the lands and tenements mentioned in the above deed poll by me executed, and intended thereby to be made, was and is made freely and voluntarily, and without any compulsion, constraint, apprehension, or fear of or from my said husband, the said Joseph Delespine.

In witness whereof, I have hereto set my hand and seal, this eighteenth day of December, one thousand eight hundred and twenty-four.

FRANCES DELESPINE. [SEAL.]

I do certify that I examined the said Frances Delespine privately and apart from her said husband, as to the truth of the above declaration; and that after said examination, she, the said Frances Delespine, also separately and apart from her said husband, made, signed, and sealed the said declaration in my presence.

JOHN M. SANCHEZ,
Justice of the Peace.

TERRITORY OF FLORIDA, *County of St. Johns, ss.*

Be it remembered, that on the twentieth day of December, 1824, Francis R. Sanchez, a subscribing witness to the foregoing relinquishment of dower, came before me, the subscriber, clerk of the county court for the county aforesaid, and made oath that Frances Delespine in his presence signed, sealed, and acknowledged the same as and for her act and deed, for the purposes therein mentioned; whereupon, I have recorded the same.

Witness my name, the day and year above written.

JAMES S. TINGLE, Clerk.

[Nos. 14 and 15.]

TWO CERTIFICATES, PLATS OF SURVEY.

Offered and read by Claimants.

Being the annexed two certificates and plats of survey, and which are certified by Antonio Alvarez, keeper of the public archives of East Florida, as true copies from documents transferred to his office by the register and receiver according to law. No. 14, of two thousand acres; and No. 15, of forty-one thousand acres.

No. 14.

Don GEORGE CLARKE, &c.

I certify that I have measured and delineated to Don Jose Delespine, two thousand acres of land on the northwest side of the head of the river Ys, alias Indian river, in part of a greater quantity which was granted to him on the ninth of April, 1817; and conforms with the following plat and its copy preserved in the book of surveys in my charge.

St. Augustine, January 25th, 1820.

(Signed) JORGE I. F. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 15.

Don GEORGE CLARKE, &c.

I certify that I have measured and delineated to Don Jose Delespine, forty-one thousand acres of land on the northwest side side of the river Ys, alias Indian river, and in front of the island of said river, called Merritt's Island, and in part of a larger quantity which was granted to him on the ninth of April, 1817; and agrees with the plat which accompany, and its copy preserved in the book of surveys in my charge.

St. Augustine, February 20th, 1837.

(Signed) JORGE I. S. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCNEZ,
In. and Tr. Sup. Court E. D. F.

[No. 16.]

Offered and read by Counsel of the United States.

Being the testimony of Antonio Alvarez, taken under commission issued from this court, and duly returned in the case of John W. Lowe and others, against the United States; the same being so copied as to be made applicable to this case, to wit:

DEPOSITION OF A. ALVAREZ.

District of East Florida. Superior Court.

THE UNITED STATES *ads.* MICHAEL LAZARUS and others. } Land Claim. 43,000 acres.

Interrogatories to be propounded to Antonio Alvarez, Esq. keeper of the public archives of East Florida, a witness to be sworn and examined before John C. Cleland, Esq. a justice of the peace.

First. Are there any (royal order or) royal orders from the King of Spain, or any order or order from the council of the Indies, the Captain General or Intendant of the Island of Cuba, providing for the granting of lands in East Florida, on file in your office, except the royal orders of the 29th October, 1790, and the royal order of July 7th, 1815, or not? If there are, please to name them, and annex a copy thereof to your answer.

Second. Are the royal orders, dated Havana October 15th, 1790, and published in Clarke's Land Laws, page 996, and the one, dated Havana July 7th, 1815, and published in the same book, page 1010, the same that you have first mentioned above, or not? Please to state particularly whether all the grants or concessions of land in East Florida made since 1790, were made under either one or the other of these two last mentioned royal orders or not? If not, under what royal order were they made.

Third. Was it the duty and the practice of the governors of East Florida to file the office of the escribano of that province (or in some other office, and which) all the orders which they respectively receive from the King of Spain, or from any of their superior officers relative to the granting of lands in said province, or not?

Fourth. Were you acquainted with the laws and usages of the Government of East Florida before the transfer of that province to the United States, or not?

Fifth. When the Governor of East Florida referred any matter of judicial inquiry in relation to lands in which the King of Spain might have an interest to the auditor of war for his report, and said auditor reported thereon, and the governor made a decree, approving such report, and requiring it to be complied with, was or was not the said decree according to the laws and usage aforesaid, conclusive as to all the matters and things contained in said report?

Sixth. Was or was not such decree held and considered by the tribunals of the province aforesaid, as of the highest judicial authority and conclusive upon all the matters embraced by such report, unless the same was reversed by the King, or by said Governor himself upon a review thereof?

THOS. DOUGLAS,
United States Atorney, &c.

OBJECTIONS AND CROSS INTERROGATORIES.

We object to so much of the second interrogatory as call for an answer from the witness to the following inquiry, to wit: "whether all grants or concessions of land, in East Florida, made since 1790, were made under either one or the other of these two last mentioned royal orders or not? And if not, under what royal order were they made.

We object to this inquiry, because it is an attempt to prove the contents of *grants* or *concessions* by parol. The grants or concessions, themselves in writing in the office of the public archives, are the best and only legal evidence of their contents, and of these, certified copies are authorized and directed by law, or in a proper case, under the mandate of the court. The originals themselves may be taken from their depository and exhibited in evidence. No parol testimony, no inference from, or construction of, their contents, is admissible from any witness.

We object to the inquiry also, because it calls for evidence wholly irrevalent to this case; to the issue before the court; to the grant now in question; grants in other cases, and the orders under which made, are foreign to, and not legal and pertinent evidence in this case.

First cross interrogatory. If in answer to the third interrogatory, you undertake to say, what was the *duty* and *practice* of the Governors of East Florida, as to the matters inquired of in the interrogatory, be pleased to state how you acquired a knowledge of the duty of these Governors, and how you know what was their *practice*, as to all the orders which they respectively received as to the granting of lands?

Second cross interrogatory. If you undertake to give any opinion upon the law questions propounded to you in the fifth and sixth interrogatories, state your means of knowledge, and upon what principles your opinion is founded.

We object to the fifth and sixth interrogatories; that they call for the opinion of the witness, who is not a lawyer, upon mere questions of law.

Superior Court—Eastern District of Florida. St. Johns' county.

THE UNITED STATES *ads.* MICHAEL LAZARUS, AND OTHERS, } Land Claim. 43,000 acres.

The answer to the interrogatories propounded to Antonio Alvarez,

keeper of the public archives of East Florida, a witness examined in the above cause, the said Antonio Alvarez, being first duly sworn. Taken in behalf of the United States.

To the first interrogatory, witness answers: There are none to my knowledge.

Second interrogatory, witness answers: I have never read Clarke's Land Laws. I believe that all the grants of land made in East Florida since 1790, and founded upon the royal order communicated to this Government, on the 29th of October, 1790, and the royal order of the 29th of March, 1815.

Third interrogatory, witness answers: It was the practice to file in the Secretary's office, all official communications received by the Governors, and it was considered their duty to do so.

Fourth interrogatory, witness answers: I am not acquainted with the laws, but I am of some of the usages.

Fifth interrogatory, witness answers: As far as I know, all the decrees of the Governors of East Florida, relating to lands, with or without the report or advice of the auditor of war, were here considered conclusive, except when the Governors themselves referred the same to a higher authority; but I cannot say any thing with respect to the law on this subject.

Sixth interrogatory, witness answers: To this interrogatory I answer the same as in the preceding one.

Cross Interrogatories.

First cross interrogatory, witness answers: While I was a clerk in in the Government Secretary's office, it was the practice to file all the official communications handed by the Governors to the Secretary, but I do not know whether the Governors retained or not in their possession, any official communications. It was considered the duty of the Governors to hand them to the Secretary, but I know about no law respecting this subject.

Second cross interrogatory, witness answers: I have stated, and now repeat, that I know nothing of the law on this subject.

ANTONIO ALVAREZ.

Sworn to and subscribed before me this 14th day of August, A. D. 1834.

JOHN C. CLELLAND,

Justice of the Peace, and Commissioner.

[No. 17.]

Offered and read by Counsel of United States.

Being the testimony of Antonio Alvarez, taken under commission issued from this court, and duly returned in the case of Oliver O'Hara against the United States; the same being so copied as to be made applicable to this case; and the translations of documents referred to in said testimony and annexed thereto, to wit:

Deposition of Alvarez in O'Hara's case.

District of East Florida—Superior Court.

THE UNITED STATES *ads.* MICHAEL LAZARUS AND OTHERS. } Land Claim. 43,000 acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, keeper of the public archives of East Florida, on behalf of the United States, before John C. Clelland, Esq. a justice of the peace.

First. Are there any royal titles on file in your office, which were given by any governor of East Florida, conveying the title of lands to the grantee or grantees, on account of services rendered by such grantee or grantees, or on account of losses sustained by such grantee or grantees, during the insurrections which took place in said province, in the years 1812 and 1813, or at any other time or not?

Second. If you answer the preceding direct interrogatory in the affirmative, please to examine such royal titles particularly, and state the time when the first of such royal titles was made, and annex a copy thereof to your answer to this interrogatory.

Third. Please to examine your office and ascertain to whom the largest quantity of land was confirmed, by a royal title in said province, previous to the year 1816. State to whom said royal title was made, and annex a copy thereof to your answer to this interrogatory.

Fourth. Please to state the quantity of land embraced in a Spanish caballeria, as known or generally understood in said province, before the transfer thereof to the United States.

Fifth. Was it generally considered and understood to be thirty-three and one third acres, or not.

THOS. DOUGLAS,
United States Attorney, &c.

SUPERIOR COURT, *District of East Florida St. John's county.*

THE UNITED STATES *ads.* MICHAEL LAZARUS and others. } Land Claim. 43,000 acres.

The answers to the interrogatories propounded to Antonio Alvarez, Esq. keeper of the public archives of East Florida, a witness examined in the above cause. The said Antonio Alvarez, being first duly sworn.

To the first interrogatory, witness answers: There are on file in my office original royal (real) titles given as a reward for services rendered the Spanish Government of East Florida, during the insurrection in the years 1812 and 1813, and afterwards. I believe there is no specific title made as a payment for losses sustained.

Second interrogatory, witness answers: The date of the first original royal (real) title in my office for services is the 20th December, 1815, and a copy of said title is hereunto annexed.

Third interrogatory, witness answers: The largest quantity of land confirmed by the royal (real) title previous to the year 1816, was to John McQueen; a copy of which is hereunto annexed.

Fourth interrogatory, witness answers: Thirty-three and one-third acres.

Fifth interrogatory, witness answers: Yes.

ANTONIO ALVAREZ.

Sworn to and snbscribed, before me, this 15th day August, A. D. 1834.

JOHN C. CLELAND,
Justice of the Peace and Commissoner.

DOCUMENTS ANNEXED TO ALVAREZ'S ANSWERS.

Title of property of one hundred acres of land, in favor of Jose and Miguel Andrew.

Don Juan Jose de Estrada, Lieutenant Colonel of the royal armies, Sergeant Major of the city of Havana, civil and military Governor, and chief of the royal exchequer pro tem. of this city of St. Augustine, of Florida and its province. Whereas, in royal order of the twenty-ninth of March of the present year, his majesty has been pleased to approve the concessions and rewards proposed by my predecessor, the Brigadier Don Sabastian Kendelan for the officers and soldiers of the regular army, as well of the militia of this province, who aided with their good services to the defence of it in time of rebellion, one of those favors being the distribution of lands in proportion to the number of family that each individual might have. That Jose and Miguel Andrew, artillery men of the company of militia of this city, having presented themselves, soliciting jointly, one hundred acres of land, fifty for each one, at the place called the Chimneys, known as Governor Grant, bounding on the north by lands of Lazaro Ortega, on the south by vacants lands, on the east by Guana creek, and on the west by the North river. There were granted to them by my decree of the thirteenth instant, had in conformity with what I was advised on the aubject by his lordship, my Auditor of war, as appears by the proceedings which exists in the excribano's office. Therefore, I have thought proper to grant, as, in the name of his majesty, I do grant, to the aforesaid Jose and Miguel Andrew, the one hundred acres of land aforesaid, without injury to third persons; for themselves, their heirs and successors, in absolute property; and in issuing to them, as by these presents I do, the corresponding titles, by which I seperate the royal exechequer from the right and dominion which to said land it had, and I cede and transfer it to the aforenamed Jose and Miguel Andrew, their heirs, and successors; that in consequence thereof they may possess it as their own, use and enjoy it free of incumbrance, with all its inlets, outlets, uses, customs, rights and services which it had, has, and of right and in law thereto appertain and might belong, and it being their will they may sell, cede, transfer and alienate it, as may best suit them. To all of which I interpose

my authority as far as I can, and of right ought to, in virtue of the will of the Sovereign.

Given under my hand, and countersigned by the undersined excribano, protem, of the government and royal exechequer, of the city of St. Augustine, of Florida, the twentieth of December, one thousand eight hundred and fifteen.

(Signed) JUAN JOSE DE ESTRADA,

By order of his Excellency:

(Signed) JUAN DE ENTRALGO,

Excribano pro tem. of the Govt. Royal Exchequer.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. & Tr. Sup. Court E. D. F.

Tittle in favor of Don Juan McQueen, of ninety-eight caballerias and eight acres of land, at the plantation called San Juan Nepomuceno.

Don Enrique White, colonel of the royal armies, civil and military governor of this city of St. Augustine, of Florida, and its province, by his majesty: whereas, in royal order, communicated to this government on the twentieth of October, 1820, by the Captain General of the Island of Cuba, and two Floridas, it is provided, among other things, that to those strangers who, of their own accord, should present themselves to swear vassalage to our sovereign, there should be granted and surveyed lands, grantis, in proportion to the workers that each family might have. That Don Juan McQueen, captain of militia, and commander of them upon the river St. Johns and St. Marys, having presented themselves, and taken the customary oath, he solicited of the government and there were granted, surveyed and delivered to him, among other lands, ninety-eight caballerias and eight acres of land, at the plantation called San Juan Nepomuceno, as a part of those corresponding to him; which land is known and distinguished under the following dimensions and lines: the first line runs south twenty-two degrees west, beginning at a pine marked with a cross, on the margin of the river St. Johns, and ends at a stake with the same mark, bounding on the lands of Don Thomas Sterling, containing measurement one hundred and forty chains. The second runs west, begins at said stake and ends at a pine with the same mark, having in measurement one hundred and fifty-five chains. The third runs north, beginning at said pine, and ends at another with the same mark of a cross, its measurement is of one hundred and sixty chains. The fourth runs west, commencing at said pine and ending at another with the same mark, containing in its measurement one hundred and ten chains. The fifth runs north, beginning at the pine referred to, and ends at a stake with the same mark, its measurement is one hundred and ten chains. The sixth runs to the east, begining at the aforesaid stake, and ends at a pine with the same mark, containing in measure-

ment eighty chaines. The seventh runs north fifty degrees east, beginning at the pine referred to, and ends at a cypress marked with the same mark of a cross, it has in measurement forty clains; its front ends partly on the river St. Johns, and partly on McGirt's creek, forming an irregular figure, divided by various creeks, as appears from the certificate given by the captain Don Pedro Manot, commissioned judge for said distribution and measurement of lands, dated the fourteenth of January, one thousand seven hundred and ninety-two, and its corresponding plat, executed by Don Samuel Eastlake, who was surveyor at said measurement; and, whereas, there had been no title whatever issued to him for proof and security of his dominion to the said land, in the form that it was executed to others; that there has already elapsed more than the ten years of uninterrupted possession, to obtain the useful and direct dominion to the aforesaid lands, and in absolute property, having built houses upon and cultivated them, and finally complied with all the other conditions which the government established for the grants and concessions of the nature apparent in the title issued to other settlers, as is stated in the proceedings, moved by the interested, soliciting to have issued to him the corresponding titles to the land which he has already measured and bounded, and of which he is in possession. Therefore, and in consideration of all of which, having been previously advised by his lordship, my lieutenant auditor of war and assessor general, I have thought proper to grant him, as in the name of his majesty and of his royal justice, which I administer, I do grant to the aforesaid Don Juan McQueen, the aforesaid ninety-eight caballarias and eight acres of land, of which the said plantation is composed, for himself, his heirs and successors, in absolute property; and in issuing to him, as by these presents I do, the corresponding title, by which I separate the royal exechequer from the right which to said land it had, and I cede and transfer it to the aforesaid McQueen, his heirs and successors, that in consequence thereof they may possess it as their own, use and enjoy them free of all incumbrance, with all its inlets, outets, uses, customs, rights, and services which it had, has, and of right and in law thereto appertained, and might belong, and it being their will, they may sell, cede, exchange, transfer and alienate them as may best suit them, in virtue of the royal order already cited. To all of which I interpose my authority as far as I can and of right ought to.

Given under my hand, and countersigned by the undersigned escribano of his majesty, and of the government and royal exchequer in this city of St. Augustine, of Florida, the twenty-seventh of February, one thousand eight hundred and four, interlined to the aforesaid Don Juan McQueen, valid.

(Signed) ENRIQUE WHITE.

By order of his Excellency:

(Signed) JOSE DE ZUBIZARRETA.

Escribano of the Gov't.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ.
In. and Tr. Sup. Court, E. D. F.

[No. 18.]

LETTER, DON ONIS, TO GOVERNOR OF FLORIDA.

Offered and read by counsel of U. States.

I am informed of what your excellency communicates to me in your official letter of the 14th of May of this year, respecting your excellency having made known to the inhabitants of that province, who have claims to make for injuries and losses sustained in the rebellion of the year 1812, to prove them in due form. I wish that they may do so, as soon as possible, and that they may send to me, through you excellency, the proceedings in which it may be made to appear, or a legalized copy of it, with the corresponding request that I might ask satisfaction of them, or cause their rights to be noticed when a favorable opportunity shall present itself. I wish that all others in similar situations may do the same.

God preserve your excellency many years.

Philadelphia, 21st August, 1817.

(Signed) LUIS DE ONIS.

To his Excellency, DON JOSE COPPINGER.

I certify the above to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ.
In. and Tr. Sup. Court, E. D. F.

[No. 19.]

GOVERNOR OF FLORIDA TO DON ONIS.

Offered and read by counsel of U. States.

EXCELLENT SIR: Consequent to what your excellency is pleased to state to me in a letter of the 31st of August last, I annex a copy of the proceedings moved by various residents of this city, presenting a statement of the losses and injuries that they have suffered by the invasion of the year 1812, supported by gun boats and troops of the United States of America, to the end, that your lordship may be pleased to claim from that Government satisfaction of them.

God preserve your lordship many years.

St. Augustine of Florida, 24th of December; 1817.

His lordship, DON LUIS DE ONIS.

I certify the foregoing to be true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ.
In. and Tr. Sup. Court, E. D. F.

[No. 20.]

CAPTAIN GENERAL OF CUBA TO GOVERNOR OF FLORIDA.

Offered and read by counsel of U. States.

I have received the letter of your excellency, No. 871, and documents which accompany, relative to what has taken place with Don Gideon Dupont, in the lands which were granted to him in that province, to cultivate them and what you determined touching this affair in the edict which you enclose: I answer your excellency, that as you have given an account of this particular to his majesty, we ought to wait his sovereign will, and in the meanwhile what is provided in said edict will be followed.

God preserve your excellency many years.

HAVANA, 14*th of November*, 1805.

(Signed) THE MARQUIS OF SOMERUELOS.
Senor Gov. of East Florida.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ.
In. and Tr. Sup. Court, E. D. F.

And afterwards at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit: on Tuesday the twenty-seventh day of said term, and the twenty-sixth day of August, the following entry of record was made in the couse, to wit;

CASE ARGUED.

MICHAEL LAZARUS, ENOCH WESWALL, and JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

This day came as well the counsel for the said claimants as the counsel for the said United States, and argument of counsel on the part of the United States was on this heard by the court.

And afterwards at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit: on Saturday the thirty-first day of said term, and the thirtieth day of August, the following entry of record was made in this cause, to wit:

CASE FURTHER ARGUED.

MICHAEL LAZARUS, ENOCH WESWALL, and JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

This day came as well the counsel for the said claimants, as the

counsel for the United States, and argument of counsel was on this day heard on the part of the said claimants, but the counsel for the United States not being now prepared to offer further argument in this cause, the further hearing thereof, was postponed till Monday morning at 10 o'clock.

And afterwards at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Monday the thirty-second day of said term, and the first day of September, the following entry of record was made in this cause, to wit:

CASE FURTHER ARGUED AND SUBMITTED.

MICHAEL LAZARUS, ENOCH WESWALL, and JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

This day came as well the counsel for the said claimants, as the counsel for the United States, and the argument of counsel on both sides was on this day concluded, and this claim now submitted to the court for its decree therein.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Wednesday the thirty-ninth day of said term, and the twenty-sixth day of November, the following entry of record was made in this cause, to wit:

CONTINUED FOR FURTHER PROOF.

MICHAEL LAZARUS, AND OTHERS, *vs.* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

This case having been heard and submitted to the court, and the court having examined the same, doth order that this cause be continued with leave to the parties, to introduce further proof therein.

And afterwards, before the superior court for East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-five, to wit, on Thursday the seventh day of said term, and the twenty-third day of said month, the following entry of record was made in this cause, to wit:

FURTHER PROOF OFFERED.

MICHAEL LAZARUS, AND OTHERS, *vs.* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

This day came as well the counsel for the said claimants, as the counsel of the United States, and this cause having been continued

after the hearing thereof, at the last July term of this court, for further proof, the counsel for the said claimants this day offered in evidence, the testimony of Joseph S. Sanchez, Bernardo Segin, Zephaniah Kingsley, George I. F. Clark, John M. Fontane, John Rodman, John A. Cavedo, and F. M. Arredondo, taken in the case of Elilazabeth Wiggins, against the United States, so far as the same relates to the manner of applying for and obtaining concessions of land; the evidence of the concession or grant delivered to the party; as to Aguilar's having been Secretary of the Spanish Government; the duties of the Secretary of Government; the effect of his certified copy of concession, and its admissability in Spanish tribunals, or by Spanish authorities as evidence; as the manner of keeping the office of the archives before and after the cession, and by whom. And the counsel of the United offered in evidence the cross examination on the part of the United States of the same witnesses relating to the same subjects, under this agreement of counsel filed in said case of Elizabeth Wiggins.

[No. 21.]

Offered and read in this cause as further proof, and referred to in the foregoing entry of record.

Superior Court—East Florida, July Term, 1835.

MICHAEL LAZARUS, AND OTHERS, *vs.* THE UNITED STATES. } Land Claim. 43,000 acres.

Testimony of *Joseph S. Sanchez*, *Bernardo Segin*, *Zephaniah Kingston*, *George I. F. Clark*, *John M. Fontane*, and *John Rodman*, taken in open court, in the case of Elizabeth Wiggins against the United States, so far as the same relates to the manner of applying for, and obtaining concessions for lands; the evidence of the concession or grant delivered to the party; as to Aguilar's having been Secretary; the duties of the Secretary of Government; the effect of his certified copy of concession, and its admissibility in Spanish tribunals, and by Spanish authorities in evidence; and as to the manner of keeping the office of the archives, before and after the cession.

TESTIMONY OF JOSEPH S. SANCHEZ—of Joseph S. Sanchez.

Joseph S. Sanchez, sworn as a witness in open court, on behalf of the claimants, states, that he is a native of this country, and has constantly resided here. Witness states that the usual mode under the Spanish Government here, for a party wishing lands, was to petition the governor, setting forth the number of their family; (this was under the royal order of 1790;) and upon that memorial or petition, a decree of the governor was made, either granting or rejecting the petition;

and that decree was usually made in the office of the Secretary of the Government. Witness states that the original memorial and decree were deposited in the secretary's office, and it was the general usage of the government that the memorial and decree should remain in that office. Witness states that the evidence given to the party of of his right to the land granted, was a certified copy of the memorial and decree made by the Government Secretary. Witness states, that according to the usage and practice of the Spanish Government here, that a certified copy was received as complete evidence of the party's right to the land, and that the grant was made; and witness believes that, that certified copy was considered by the Spanish tribunals here, as equivalent in all respects to the original.

Witness states, that this certified copy was always considered as sufficient authority for the surveyor general to lay off the land granted. Witness states, that he was here in 1821, at the time of the cession of this country to the United, and that he has not been away from here except once, that he went to the Havana, and several times to Tallahassee as a member of the legislative council, and that he was here in 1822 and 1823. Witness states, that, at the time of the cession of this country, there was a good deal of fear that the original papers might be lost. The United States took possession of those papers in a very tumultuous manner. Witness states, that he recollects that Mr. Law had charge of these papers, and thinks he took charge of them a short time after they were taken out of the hands of the Spanish authorities. They were kept by Mr. Law in the hall under the room, now occupied as a court room; and witness does not recollect they were kept any where else by him. Witness states, that he was in the habit of going into the office of the archieves while Mr. Law had charge of it, for four or five months, morning and evening. Witness had an acquaintance in that office, a Mr. Cavedo. Witness thinks there were a few temporary shelves put up in this room, spoken of by him, but does not know whether these shelves were sufficient for all the papers in the office or not; there were some bundles of papers on the table, and some in some boxes in the room. Witness did not think, at the time, that these papers were kept carefully. Witness has seen papers blown from the bundles over the room: many of the bundles of the papers were kept loose. Witness states that he don't know that Mr. Law was at all precise as to the persons he permitted to come into the office. Witness saw a good many persons in the office. Witness states that he has been several times in the office, and found neither Mr. Law or his deputy, and the windows and doors both open. Witness states that this office was kept in such a manner that nothing could be more easy than to abstract or take from it documents, if persons felt disposed to do so. Witness says that this office was kept very carelessly, very much so indeed. Witness states that the manner in which this office was kept, was a matter of anxiety and alarm to the inhabitants of this place, and he has heard persons, interested in land claims, express their alarm that their papers might be lost from this office. Witness states that he cannot say by what authority these papers came into the possession of Mr.

Law, whether they came into his possession in virtue of his office as alcalde of this city or not, and has never heard that he was under any pecuniary responsibility for the safe keeping of these papers. Witness states that he thinks a Mr. Penn, who is now dead, had something to do with these papers, but whether as Mr. Law's deputy or not, he does not know. Witness knows that these papers were in the possession of Mr. George Gibbs and Mr. Tingle together, at one time, and believes that neither Mr. Gibbs or Mr. Tingle, understood the Spanish language. Witness states that the original memorials and decrees were kept in separate sheets of paper filed away in bundles, in which way he thinks they are kept now.

States that he thinks in one or two instances, he has seen persons searching for papers in the office of the archives, while that office was kept by Mr. Law, which persons were not in any manner connected with the office; and that, during the time these persons were thus searching, neither Mr. Law nor his deputy were present. Mr. Medicis, who is now dead, was one of the persons he saw thus searching for papers in this office. Witness states that he believes that concessions and decrees for lands were kept in the Spanish Government secretary's office upon loose sheets of paper, filed away in bundles. Witness states that he thinks that it would have been perfectly easy for these persons, that were examining the papers in Mr. Law's office, to have abstracted them from that office if they thought proper: there was nothing to prevent it, to have abstracted them from the office if they thought proper; there was nothing to prevent it.

Examined by U. S. Attorneys.—Witness states that his opinion is, that a certified copy by the Government Secretary would be received by the Spanish courts, as full evidence, is founded on his knowledge of the usage of the Spanish Government. Witness knows nothing about Spanish law. Witness states that persons wishing to obtain royal titles for their lands, usually petitioned the Governor, and attached to their petition a certified copy by the Government Secretary of the memorial and decree; and this is the reason that the witness thinks that this certified copy would be received by the Spanish Government as full evidence of the grant: and I suppose it was upon this evidence, the governor usually made the royal title; and it is from this practice, the witness believes, that a certified copy would be received as evidence. Witness states that he does not know of an instance, nor has he heard of one, where the royal title had issued upon the certified copy of the concession by the Government Secretary, when the original concession was not filed in the proper office. Witness believes that when individuals wished to transfer papers from one part of the Spanish dominions to another, from fear of losing them, would deposite the originals in some public office, by permission of the government, certified copies of which were received as evidence in any other part of the Spanish dominions; and witness does not know whether that certified copy would be received in evidence when it was known at the time, that the original was not in the proper office. Supposes it would not be received in evidence.

Witness states, that he thinks that he has picked up in Mr. Law's office some grants of land which were blown from the bundles in the office across the floor; there were some bundles of papers in some boxes, which were without tops, but the principal part of the papers in this office, were kept on open shelves; (when witness speaks of the principal part of the papers, he does not mean the principal part of the grants, but the principal part of the bundles of papers in the office.) Witness does not know whether all the papers received from the Spanish Government were in this office of Mr. Law's or not, but he did not think that there were as many papers in this office as he had seen in boxes, when they were taken from the Spanish Government. Witness saw two boxes with papers in Mr. Law's office; these boxes were about four feet in length, and about three feet wide, and two feet high. These boxes were not quite half full of papers. Witness can't say that the grants and concessions in this province would contain more paper than he saw in these two boxes. Witness did not see these papers, that he found on the floor in Mr. Law's office, blown from the shelves. There was nobody in the office when he found them; he merely found them on the floor, and supposed they were blown from the shelves; but they may have been blown from the table. Witness states that the grants of land which were in this office, were in bundles, but the strings of some of the bundles were loose, and the papers perfectly unconfined. Some of the bundles had been opened in looking for papers, and had not been tied up again. Witness saw them in that situation several times. Witness was in this office every day. Witness does not remember to have seen Mr. Law in the office except when he came to sign papers which had been copied by his clerk, Mr. Cavedo. Witness has been in the office several times and found neither Mr. Law nor Mr. Cavedo there. Witness says, that he don't recollect whether Mr. Cavedo was in the office at the time he picked these papers off the floor; he has several times picked up papers from off the floor, when no one was in the office; and sometimes when he came to the office and found papers throwing about in this way, Mr. Cavedo was there. Witness states that when he went into Mr. Law's office, and found no one there, he did not remain long before Mr. Cavedo came in, some eight or ten minutes, and witness supposes that the way that the office came to be alone, was, Mr. Law would come into the office, not more, perhaps, than once a week to sign copies of papers that had been made out by Mr. Cavedo, and having signed the copies would retire, leaving the doors and windows open. Witness states that the windows were used as much as a place of entrance as the door; and witness has entered the office through the windows very frequently. The door was in the yard, and people did not take the trouble to go round to it. Witness found the door closed sometimes, but it was barely pulled to. Witness states that there were two windows in this office that opened into the street, and the door from this office opened into the yard, under the piazza. Witness states, that he thinks when Mr. Cavedo left the office to be absent for any length of time, he always fastened the door and windows, as well as they could be fastened; and witness himself has assisted him

to do so. Witness thinks that the door and windows of the office could not be scurely fastened; the window-shutters were very old, and any person could have pulled them open, by putting their fingers between the shutters. Witness states that he does not know that these papers, that he saw blowing about the office, were papers that Mr. Cavedo had copied; they were such papers as he usually copied. They might have been papers which he copied, or they might have been blown off the shelves. Witness states that he does not know that the Mr. Medicis, that he saw in Mr. Law's office, was an associate of either Mr. Law's or Mr. Cavedo's; he does not know that he was acquainted with Mr. Law, and was not intimate with Mr. Cavedo. Witness don't know what he was searching for.

Examined by Claimants' Attorney.—Question. You said that the certificate of the Government Secretary, attached to the memorial for a royal title, was the evidence on which such royal title was usually given. Have you not also understood that it was the evidence on which the land was surveyed to the grantee by the surveyor general?

Answer. The surveyor general, on the presentation of this certificate always made the survey, and that certificate was evidence to him that the land was granted.

Question. Do you not understand that the certificat of the Government Secretaray was full proof of all the facts which such certificate set forth?

Answer. Witness supposes so; it was always taken and believed so.

Question. Did you not understand, and mean to testify, that the certificate of the Government Secretary, was proof that the memorial was presented, and the decree passed by the governor, as set forth in the copies certified by the secretary?

Answer. Witness believes that they were always so accepted by the government; he never heard it questioned.

Question. Was not such certificate, evidence of the original memorial and grant?

Answer. Witness says, "certainly."

Question. Would not such certificate, in your judgment, and according to the usages in this province in Spanish times, be evidence or proof that the original memorial or decree were in the proper office at the time the certificate was given, though at some subsequent period, they had been taken from it, or could not be found there? (This question objected to by the counsel of the United States, and objection overruled by the court.)

Answer. Witness says, he thinks that they would, according to what he knows on the subject; but thinks they were usually taken.

Question. Had the grantee any right to the possession of, or any control over, the original answer. Witness says, "no."

Question. Could a certified copy of the original be obtained at any time from the secretary's office, so long as that original remained in that office?

Answer. Witness says, yes. He could get as many copies of the originals as he pleased.

Upon inquiry, and, on looking at the certificate of Thomas de Aguilar attached to the memorial and grant in this case, witness says, that the certificate of Aguilar, attatched to this grant, is in the usual form of such certificates.

Examined by United States Attorneys.—Question. Do you recollect a single instance in this province, while under the Spanish Government, in which a certified copy of a concession was received in evidence and taken as proof that such a concession was made, when no original concession could be found in the office from which the purported to have been made?

Answer. Witness says they may have occurred, does not know of any of his own knowledge. Witness never heard of an instance where the originals were inquired after, when the certificate was exhibited.

Question. Do you recollect any usage of the Spanish Government by which such a certified copy, under the circumstances stated in the last preceding question, could have been received in evidence?

Answer. Witness says he does not recollect of any usage on the subject, except the usage, as already stated, of receiving them in evidence. Witness adds, that he supposes that it was already taken for granted, that where the certified copy was offered, the original was in the office; and that he knows of no other instances where a certified copy was received in evidence, except those where they were presented to the surveyor general, or to the governor, on application for royal titles, and they were taken by them as evidence without further inquiry.

Witnes states, that it is his opinion that when it was known that there was no original in the office, this certified would be received in evidence, unless the opposite party could prove that it was a forgery. Witness does not remember of a single instance where a certified copy was offered when there was no original in the office. Witness thinks a certified copy would be received, unless it was proven that there never was an original in the office, or that it was a forgery. Witness is now speaking of his opinion of the usage of the province. Witness does not know that an instance has occurred in Spanish times, where a certificate has been exhibited, that the opposite party has suggested that there had been no grant made In Spanish times, the party alleging a forgery, was required to prove it. Witness states, that where a party brought suit upon his grant, alleging it to be good, and the opposite party denying that it was so, the party alleging that it was not a good grant, was required to prove that it was not so. Witness says, he is talking of what the usage would be; he has never heard of such a case, and that he never heard of any such litigation as that spoken of by him above, in Spanish times. Witness states, that the question never arose, to his knowledge, whether a grant was in or out of the office; the certified copies always spoke for themselves. Witness states, that he does not recollect that he has ever

heard of an original concession being lost in Spanish times from the archive office.

On the testimony of Joseph S. Sanchez being read over to him, he desired to explain and correct that part of it, in which he is made to say "*that he does not know whether the certified copy would be received in evidence when it was known at the time that the original was not in the proper office; supposes it would not be received in evidence;*" and he now says that his opinion is, that where it was known that the original never had been in the office, the certified copy would not be received in evidence; but the certificate would be prima facia evidence that the original had been in the office.

By the Court.—Question. Do you know of any case having existed under the Spanish Government, where the certificate of the secretary was received as evidence, when it appeared that the original had never been in the office?

Answer. Witness states, that he never heard of such a case, and does not believe that such a case ever existed.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by U. S. Attorneys.—Question. Did not the regulations and usage of this province require the grantee to take possession of the land granted within six months after the date of the grant?

Answer. I never heard of any fixed regulation; the Governor's will, I believe, was superior or equal to any regulation, and he directed as he pleased, when the party should take possession of the land.

Question. When the Governor published his regulations, were they not considered in force and binding on the inhabitants till he changed them?

Answer. I cant say that the Governors themselves stuck to their regulations; they were made for the Governors' regulation, and the people had nothing to do with them; the Governor changed them whenever he thought proper.

Question. You say the people had nothing to do with the regulations published by the Governors; did they not obtain their grants under those regulations?

Answer. Yes, they did sometimes; sometimes native born Spanish subjects would apply to the Governor for land, and he would refuse grant it to them; that shows that he did not mind his regulations, or that he considered himself bound by them.

Question. Do you know of any instance in which the Governor made a grant contrary to the regulations? and if you do, please state the case.

Answer. I cant call any particular case to my mind just now; I do not recollect any particular case; I think the Governor has granted lands to persons that had no slaves.

Question. Do you know of any other departure from the regulations than the one you have mentioned?

Answer. I do not recollect.

Examined by Claimant.—Question. Did not the Governors, agreeably to your understanding of the usage of this province, grant or refuse to grant lands for head rights, according to his own good will and pleasure?

Answer. I never knew of any other regulations, or heard of any other, than the Governor's will; I never heard his power disputed.

Examined by U. S. Attorneys. Witness states that he never heard that the Spanish Governors of this province were controlled by any law in the granting of lands; they granted lands as they pleased; the Governors of this province were governed by their will alone; they were generally considered supreme. Witness never heard any one doubt the power of the Governor in any instance.

Examined by Claimant.—Question. Do you, or do you not mean by your answer to the last preceding question, that *their will* was the supreme law of this province, and that no one in the province presumed to dispute it?

Answer. That's what I've said in my last answer.

Examined by U. S. Attorneys.—Question. Were not the Governors of this province under the control of the laws of the Indies and the royal orders of the King, in all matters relating to the granting of land, and did they not strictly obey those laws and royal orders?

Answer. From what I've seen of the books containing the laws of the Indies, I think the Governors were not bound by them, or the royal orders; as I know that the Governors did not obey those laws; and I know many instances where the Governor has refused to grant lands when the parties were entitled to them under the laws of the Indies; I have known many instances, but I do not at this time recollect them. Witness qualified this answer by adding, the Governors might have been bound by these laws, but they disregarded them in many instances.

Examined by the Court.—Witness states, that he does not know whether regular reports of the transactions of the Government in this province, during Spanish times, were sent to Spain at stated periods.

Examined by U. S. Attorneys.—Question. Have you any other reason forbelieving that the Governors of this province were not be bound by thlaws of the Indies and the royal orders of the king, and that their will was the supreme law of the province, than you have given in your answer to the last preceding question?

Answer. He certainly could not be bound by any law, if he could arrest a person in the street, without telling him for what, and imprisoning him, and feeding him on bread and water, as he has done here, and nobody disputing his power here.

Question. Is it from your recollection of the fact, that the Governor of this province sometimes refused to grant lands to persons whom you thought entitled to them, and of their having persons arrested in the street, and put in confinement, without telling them the cause of their arrest, that you have formed the opinion that their will was the supreme law of the land, and that he was not always governed by the laws of the Indies and the royal orders of the King in making grants of land?

Answer. Yes, it is, from the circumstance that his will governed every thing, and nobody disputed it.

Question. What generall aw of Spain, or royal order, did the Governor violate in causing persons to be imprisoned in the manner you have mentioned?

Answer. I never looked over the royal orders or the laws of the Indies till lately, and the opportunity I have had of seeing the orders, is from translating papers from the archive office, and he was not at all times governed by them.

Question. Do you know that the Governor was satisfied that the persons to whom you say he refused to grant lands, were entitled to grants of land, agreably to the laws of the Indies?

Answer. He must have known that these persons were entitled to grants of land, as the persons were native born citizens; the Governor must have known these circumstances, and that they were entitled to grants of land.

TESTIMONY OF B. SEGIN.—Of Bernardo Segin.

Bernardo Segin, sworn as a witness in open court on behalf of the *claimant*.

Question. Are you, or not, a native of East Florida, and have you, or not, resided the principal part of your life in St. Augustine?

Answer. Witness says, yes.

Question. In what manner, according to the usage and practice of the Spanish Government, were concessions or grants of land applied for and obtained in East Florida?

Answer. Applied for by petition to the Governor, and obtained by decree of the Governor.

Question. What was done with the original memorial and decree, or concession?

Answer. Kept in the Secretary of the Government's office.

Question. What evidence of the concession or grant was given to the party?

Answer. A certified copy of the original, by the Secretary of the Government.

Question. What was the purpose for which the certified copy of the concession or grant was given by the grantee?

Answer. To show that he had the grant, and to prove, in case of necessity, that the land was granted to him.

Question. Was, or was not, this certified copy of the concession or grant, full and complete evidence of the original, and that it was in the proper office at the time the said copy was made?

Answer. Yes, it was.

Question. Would, or would not, a copy of a concession or grant, properly certified by the Government Secretary, have been received by the courts of justice and other authority of the Government in Spanish times, as full and complete evidence, that the original concession or grant had been made?

Answer. Yes; the same as if it was the original itself. (The two last preceding questions were objected to by the counsel for the United States, and objections overruled by the court.)

Question. Was, or was not, the copy of an original concession, certified by the Government Secretary, of the same force and effect as was the copy of any act or deed, certified by a notary of the Spanish Government, according to your understanding of the usage of the Spanish Government here?

Answer. Yes, the same.

Question. Suppose it should have appeared in Spanish times, that the original of a concession or grant was not in the office at the time the certificate was offered in evidence, what, in such case, would have been the effect of the certified copy, according to the usage of the province?

Answer. It would have been received as prima facia evidence, until it was proven that no grant was ever made.

Question. Have you or not had a great deal to do with the public offices in Spanish times?

Answer. Yes, I have.

Question. Have you or not held public offices under the government in Spanish times?

Answer. Yes, I have.

Question. Are you not now the postmaster of this city.

Answer. Yes, I am?

Question. How many years have you been so?

Answer. I have been so over three years.

Question. Were you not one of the commissioners on the part of the United States, at the treaty of Moultrie with the Florida Indians, in 1823?

Answer. Yes, I was.

Question. Was, or was not, the law pursued and practised by you, as your profession, in East Florida, prior to its cession to the United States?

Answer. I was a clerk in the notary public's office, and pursued the practice of advocating cases, but I was not a professional lawyer.

Question. Who was the Government secretary of this province in 1815?

Answer. Thomas de Aguilar.

Question. How long had the said Thomas de Aguilar been Secretary of the Government of the province of East Florida, before that time, and how long after it?

Answer. I cant tell how long previous, but he was secretary till the change of flags, and I think he was secretary from the year 1809 or 1810.

Question. Was it not one of the especial duties of the Government Secretary to give out certified copies of concessions or grants of land from his office?

Answer. Yes, it was.

Question. According to the usage of the province, was not the certified copy by the Government secretary, given to the grantee for the especial purpose of securing to him evidence of his grant?

Answer. Yes, that was the object.

Examined by U. S. Attorneys. Question. How do you know that the certified copy of a concession, would have been received as evidence of the existence of the original in the proper office, under the Spanish Government?

Answer. Because I have seen it received many times, when I was clerk in the escribano's office.

Question. In what manner, and under what circumstances were they received?

Answer. As a voucher in evidence to the facts set forth in a memorial.

Question. What was the nature of the memorial to which you allude?

Answer. I allude to any kind of a memorial, any fact that might be set forth in a memorial to be proven by the certificate of any legal officer.

Question. Do you recollect any case where a certified copy of a memorial and decree for land was ever received in evidence in the escribano's office, when it was known that there was no original of said decree and memorial in the proper office of the Government?

Answer. I do not know of any such case.

Question Do you remember any case, under the Spanish Government, in which a paper certified by a Secretary of the Government as a copy of an original concession, was received in evidence, and taken as proof, that an original had ever existed, when no such concession could be found in the office from which the copy purported to have been taken?

Answer. I do not recollect any case.

Question. If you remember no case in which a certified copy of a concession was received under the Spanish Government, as evidence that an original had existed, when no such original could be found in the proper office, how do you know what was the usage in such a case?

Answer. I do not remember any such case.

Question. Do you know of any such case?

Answer. I do not recollect of any such usage. Whenever the certified copy by the secretary was offered in evidence, it was always considered that the original was in the office, and if there was no original in the office, it was a fact to be proved.

Examined by Claimant. Question. If at the time of offering to

use as evidence, a certified copy of a concession or grant, made by the Government secretary, it should have been suggested that there was then no original in the office, would that invalidate such certificate, made at a prior date?

Answer. No, it would not have invalidated it at all.

Examined by U. S. Attorneys. Question. Did you ever know such a case as the one mentioned in the last question?

Answer. I recollect of one or two instances. I do not recollect the names of the parties to them; one of them was in the proceedings of a civil law suit, and I suppose the proceedings of the case are on file in the office of the public archives: all the proceedings in Spanish courts were in writing.

Question. In what office did they occur, and at what time?

Answer. During the time I was in the office of the escribano, who was clerk of the court, these cases occurred. I was in the escribano's office from the year 1800 to 1815. I do not recollect the case or the names of the parties.

TESTIMONY OF Z. KINGSLEY.—Of Zephaniah Kingsley.

Zephania Kingsley, sworn as a witness in open court, on behalf of the claimant.

Question. How long have you been an inhabitant of East Florida?

Answer. Since the year 1803.

Question. Have you been acquainted with the manner in which public lands were granted in East Florida, in Spanish times?

Answer. Yes, I have; the manner in all cases that I know of, is first by making a petition or memorial to the Governor, dated and signed, setting forth the objects and wishes of the petitioner. It was then usual for the governor to put on the margin of the memorial an inquiry to the officer who had jurisdiction of the case, whether the facts set forth in the memorial were true or not, and according to the certificate of that officer, the Governor made his decree.

Question. Upon the memorial or petition, did the governor grant or concede the lands petitioned for, to the petitioner?

Answer. Upon this petition the Governor either conceded or refused the lands.

Question. Where was this memorial and decree of the governor kept, when he granted or conceded the land petitioned for?

Answer. After they had gone through the government office they were sometimes transferred to the escribano's office, but if they were not transferred to the escribano's office, they were kept in the secretary's office, and if the party wanted a certified copy, it was got from the escribano's office. I do not remember that I ever got a certified copy from the secretary's office, and the certificate usually contained the words "to serve in case of loss."

Question. Were not your titles, which you had lodged in the escribano's office, always royal titles?

Answer. Yes.

Question. Do you or do you not know, that mere grants or concessions of land, not amounting to what are called royal titles, were kept in the office of the Secretary of the Government.

Answer. I do not know. My understanding is that they might be kept in either office.

Question. Are you able to state that you ever saw a mere concession of land, verified by the certificate of the escribano.

Answer. I cannot call to my remembrance having seen one.

Question. Have you not seen many such concessions ratified by the certificate of the Secretary of the Government.

Answer. I cannot particularly remember.

Question. Do you not know that there were two distinct offices kept here in Spanish times, in which documents relating to the granting of lands were deposited? and if so, what were they called?

Answer. Yes. One of these offices was called the Government Secretary's office, and the other the Escribano's office.

Question. By whom were documents from the office of the Secretary of the Government certified?

Answer. By the Secretary of the Government?

Question. Were the certified copies, made by the Government secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?

Answer. Certainly. No other evidence was required that I ever heard of.

Examined by U. S. Attorneys.—Question. You have said that you always received royal titles for the lands granted to you by the Spanish Government; did you ever receive a royal title until you had first obtained a concession?

Answer. Never.

Question. Do you recollect any case in which a certified copy of a document, or paper, purporting to be a concession for lands, was received in evidence, and taken as proof that such a concession had been made by the governor, when search had been made in the proper office, and no such original concession could be found?

Answer. I never heard of such a case. I never heard of such certificate being doubted. It was considered as evidence whenever it was offered. There was no other evidence required than the certificate of the officer of the proper department.

Question. Do you recollect any case under the Spanish Government, in which the original grant or concession could not be found in the office to which it properly belonged, after such grant or concession had been made?

Answer. I never heard such a thing called in question.

Question. Under the Spanish Government, if you had gone to the public archives, and after strict examination, you could find no grant or concession to a certain individual, would you not consider that circumstance as conclusive evidence that no grant or concession had issued to such individual?

Answer. I never heard of an instance of that sort: that if a person told me he had a grant of lands in the office of the archives, and on search being made, none could be found there, I would suppose that the person had told me an untruth. Even the Governor himself would not go farther than the officer's certificate.

Question. Do you mean by what you have said, to answer the last question in the affirmative or negative?

Answer. I should not consider it conclusive, but a strong presumption, that such concession had never been made, as such examination could only have been made through the escribano or public officer, charged with the department, who might have overlooked it, or it might have been mislaid and not remembered—therefore admits of the possibility of its former existence; this is a conscientious answer to the question, and may either be considered positive or negative, according to the construction put upon it by those concerned.

Examined by claimant.—Question. Suppose, sir, that after you had examined at the office of the archives, and found no grant there, a certificate of the secretary or escribana had been presented to you, setting forth and showing such a grant, would you not consider it conclusive that such grant had been made by the government?

Answer. I certainly should consider it conclusive that the original had existed there, and had been mislaid.

Examined by U. S. Attorneys.—In your last answer, have you expressed your own opinion only, or are you speaking of the usage of the province under the Spanish Government. If of the usage of the province, how do you know it to have been the usage?

Answer. My opinion is derived from my own experience, combined with the usages of the province. I know it to be the usage from experience.

Question. Did you ever know an instance of the kind under the Spanish Government?

Answer. I cannot say that I remember any particular case of the kind at present.

Question. Then how can you speak of the usage?

Answer. The same as we speak of all other things—can't tell where we get our opinion from, but from our knowledge.

Examined by claimant.—Question. Are you acquainted with the manner in which the public office of the archieves was kept after the cession?

Answer. Only transiently when I came to town. I was never employed in the office.

Question. Be pleased to state how the said office was kept so far as came under your observation, whether with care or otherwise?

Answer. My impression was, that it was not kept with care: There was no head to it.

Question. Were you ever in the office while kept by Mr. Edmund Law?

Answer. I was in it once or twice while he was keeper, during his absence, when he was away at the north. I believe it was two years after the change of flags, before there was a regular keeper of the archives.

Question. Were the papers kept on shelves, or how were they kept?

Answer. So far as I observed, they were kept in the greatest confusion. It appeared to me to be a resort for boys, smoking cigars, and idle people.

Question. Was there or not great apprehension entertained by the Spanish inhabitants, for the safety of the titles immediately after the cession?

Answer. I heard a general expression of that sort amongst all the people, and had a great deal of fear myself.

Question. Did or did not that fear result from the manner in which the office of the public archives was kept for some time after the cession?

Answer. It did.

Question. Where was the said office kept at the time, to which you have reference?

Answer. In the room under the one now occupied as a court room.

Question. Was or was not the papers of the said office, scattered about the office, and loose upon the tables and shelves?

Answer. They were generally in great disorder. They were not in any regular order.

Question. Could or could not any paper have been abstracted from the said office, if any person had been disposed to do so?

Answer. It was my impression that they could; and it was the general report, that persons that had cases in the courts here at that time, helped themselves; and some of these papers were found among the effects of deceased persons.

(The counsel for the United States objected to the testimony of this witness, as to rumor and report, and objection sustained by the court; and testimony incorporated in the record to be reviewed in case of appeal.)

Question. Do you or not consider from the manner in which this office was kept, that papers belonging to it were liable to distruction and loss, as well as abstraction?

Answer. My impression is, that any thing could be done in it; I do consider that they were liable to destruction and loss, as well as to abstraction.

(The counsel for the United States objected to the preceding question; and objection overruled by the court.)

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept; and objection overruled by the court.

Examined by U. S. Attorneys.—Question. How long was Mr. Law keeper of the archives?

Answer. I am not able to say exactly; I think it was obout two years from the time of the change of flags, till there was a regular keeper.

Question. Who was the first regular keeper?

Answer. My impression is that Mr. Reynolds was the first regular keeper.

Question. Was not Mr. Cavedo present on these occasions, when you visited the office?

Answer. I am not able to charge my memory as to any particular individual that was present; there appeared to be no regularity, and only a parcel of boys.

Question. You know Mr. Cavedo personally, and that he was a clerk of Mr. Law's?

Answer. I know Mr. Cavedo personally, but I did not know him to be a clerk of Mr. Law's.

Question. How often were you at the office?

Answer. Two or three times.

Question. What were the evidences of disorder you saw in the manner of keeping the office?

Answer. The papers laying about in disorder, and some of them in piles on the floor.

Question. Were not the persons whom you saw in the office engaged in examining the papers?

Answer. No; I did not perceive that they were. They appeared to be playing, or amusing themselves: I did not see any of them employed in an official capacity.

Question. How were they playing or amusing themselves?

Answer. The same as boys usually do; smoking cigars, and fun.

Question. Were they small boys you saw smoking cigars?

Answer. No; they were ordinarily sized boys, and some of them stout young men.

Question. Do you recollect the names of any of the young men or boys?

Answer. I cannot charge my memory with the names of any of them.

Question. How many persons did you find in the office?

Answer. I am not able to say.

Question. Do you recollect any impropriety or disorder of conduct among the persons you saw there?

Answer. I did not, no more than young men usually would; I saw no impropriety.

TESTIMONY OF G. I. F. CLARKE.—Of George I. F. Clarke.

George I. F. Clarke, sworn as witness on behalf of the *claimants*.

Question. Were you or not, the surveyor general for this province under the Spanish Government? if you were, state how long.

Answer. Yes; from 1811, till the change of flags in 1821.

Question. Are you acquainted with the manner of applying for, and obtaining concessions of land while East Florida while under the Spanish government?

Answer. Yes; by petition to the governor, which he granted by a decree.

Question. State what was done with the decree of the governor?

Answer. The petition and decree remained in the governor's office.

Question. What evidence of the decree was given to the party?

Answer. A copy of that petition and decree, certified by the secretary.

Question. For what purpose was this certified copy given to the party?

Answer. As his evidence of the prayer of his petition being granted by the governor.

Question. Was the party entitled to the possession of the original memorial and decree, or had he any control over them?

Answer. They remained in the Governor's office as a record the party was not entitled to them.

Question. Were the certified copies made by the Government Secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?

Answer. Yes.

Question. Was, or was not, the copy of a concession properly certified by the Government Secretary, full evidence, that the original had been made, and was in the secretary's office at the time the certified copy was given?

Answer. Yes.

Question. Was or was not a copy of a concession properly certified by the Government secretary, full legal authority to you, as surveyor general, to survey to the party, the land granted him by the concession?

Answer. Yes.

Question. Was it or not your uniform practice, as surveyor general, to act upon the copies of concessions, thus certified, as authority for surveying the lands conceded?

Answer. Yes.

Question. Was, or was not, the copy certified by the Government secretary, equivalent to the original, as evidence of the party's title to the land?

Answer. Yes.

Question. Suppose it should appear *at the time* the certified copy by the Government Secretary was offered in evidence that no original could be found in the proper office, or be proved, except by such certified copy, would such certified copy still be received as evidence, that the original had existed, as set forth in such certified copy?

Answer. I know of no case of the kind that has ever happened, but I have no doubt in my mind but that the certified copy would be as good evidence as the original.

Question. According to the usages of the Spanish Government here, were not such copies, *in the absence* of the originals, received as equivelant to, and actually made *originals*?

Answer. I don't know of an instance where there was a deficiency of the originals, but I have no doubt that the copy would be received: by some process the copy would be made as good as the original.

Question. Had, or had not, the certified copy of a concession given by the Government secretary, the same force and effect, as a certified copy given by the notoary of the government, as evidence?

Answer. Yes, they both had the same effect, they were both like evidence.

Examined by U. S. Attorney.—Question. How do you know that the certified copy of a concession, given by the Government Secretary, would have the same force and effect as a certified copy given by the notary of government, as evidence?

Answer. The notary of government and secretary, gave different certificates, the notary gave certificates of titles already formed; and the Government secretary gave certificates of decrees, and memorials; and the respective certificates by these officers were of the same effect. The notary never gave such certificates; the certificates given by the notary, were as good as the certificates of the Government secretary, when they related to things which he could certify. They had not the same effect when applied to memorials and decrees.

Question. Was not the notarial certificate annexed to the copy of a grant, always under the seal of the notary; and was not the certificate given by the Government secretary, and annexed to the copies of concessions, always without seal?

Answer. The notary used no seal, he used a flourish that was called a signet. The Governor put a seal on such papers as were to go out of the province. The certificate of the secretary had no seal.

Question. Was not the signet of the notary furnished him by the Government at the time of his appointment, and was said notary not required to affix his signet to all his official acts?

Answer. Yes.

Question. How do you know that a certified copy given by the Government secretary was equivalent to the original, as evidence of the party's title to the land?

Answer. The certified copy was full evidence, and the originals could be no more. I never saw the original produced in evidence.

Question. Do you recollect any case under the Spanish Government in which an instrument of writing certified by the Government secretary, as a copy of a concession, was received as full evidence of a concession, when no original concession could be found in the proper office of the Government?

Answer. I do not recollect in any case of there having been any deficiency of the original.

Question. Do you recollect any usage or custom under the Spanish Government, by which a certified copy of a concession would be received in evidence, and taken as proof that an original concession had existed, when no original could be found in the proper office, and when no other proof of the original having existed could be produced, except the certified copy given by the Government secretary?

Answer. I know of no case having occured in which an original was wanted; but if the original could not be found, it would be sup-

plied, and my reason for thinking so, is my knowledge of the patriarchal character of the Goverment, and the benevolence of the Governors, who would supply the deficiency, in order that the party should sustain no loss.

Examined by the claimant.—Question. Had the notary of the Government possession of, or any thing to do with the papers kept in the secretary's office?

Answer. not until they were passed to his office for some particular act or operation.

Question. Had the Government secretary possession, or any thing to do with the papers kept in the notary's office?

Answer. No.

Question. What kind of titles were kept in the offices of the secretary and notary of the government, respectively?

Answer. The first formation of the grant, which was the memorial and decree, was lodged in the secretary's office, and was then passed to the notary's office, when prepared to receive the royal title.

Question. Were not the royal titles kept in the notary's office?

Answer. Yes.

Question. Were not the concessions kept in the secretary's office?

Answer. Yes; the memorials and decrees were kept in the secretary's office, and were called concessions.

Question. You said in reply to a question from the counsel for the United States, that the certificate of the *secretary*, and the *notary* "had not the same effect when applied to memorials and decrees."—I now ask, would not the certified copies of either of these officers to matters proper for them to certify to, be full evidence of the matters thus certified by them?

Answer. Yes.

Question. Was, or was not, the certificate of the *secretary*, to the copy of a memorial and decree in case of a concession, as full evidence of such memorial and decree, as the certificate of the notary to the copy of the title papers would be, in case of a royal title?

Answer. Yes.

Examined by U. S. Attorneys.—Question. Do you recollect any distinct fact or occurrence under the Spanish Government, which enables you to answer the two last questions, put to you by the counsel for the claimants, in the affirmative?

Answer. No. I do not recollect any particular fact or occurrence, but speak from general usage.

Question. How do you know the general usage, when you recollect no fact or occurrence, by which the usage would be known?

Answer. The general usage of the papers being passed to and fro, through the offices, and never being refused. Does not recollect of any paticular occurrence.

Question. Do you recollect an instance, in which an original royal title could not be found in the proper office, either under the Go-

vernment of Spain or the United States, where a certified copy of such title under the hand and signet of the notary, or keeper of public archives, was produced?

Answer. I dont recollect.

Examined by claimants.—Question. Were not the concessions kept in loose and separate sheets of paper in the secretary's office?

Answer. Yes.

Question. Were not the royal titles kept in books, or bound together, in the notary's office?

Answer. Yes.

Examined by U. S. Attorneys.—Question. Were not the original concessions carefully put up in bundles, and tied with strings, and were they not carefully preserved in every respect to the best of your recollection and belief.

Answer. Yes. They were tied up in bundles once a year, and labelled in front, and were carefully kept and preserved in every respect while in the hands of the Government secretary.

Question. Were the books and records of the royal titles of which you have spoken, any thing more than a few sheets of paper stitched together, without binding?

Answer. They were generally large books, regularly bound.

TESTIMONY OF JOHN M. FONTANE—of John M. Fontane.

John M. Fontane, sworn as a witness in open court in behalf of the *claimant.*

Question. Be pleased to state whether or not you are a native inhabitant of East Florida?

Answer. I am.

Question. Are you acquainted with the manner in which grants or concessions of land were made in East Florida, in Spanish times? If so, state the manner.

Answer. I am in some measure. I cannot say that I am perfectly acquainted with the manner; in the first place it would be by petition to the Governor, and the Governor would act upon the petition, and either grant or refuse the prayer of the petitioner.

Question. When the lands petitioned for, were granted or conceded by the Government, was the concession or grant by the decree of the Governor?

Answer. Yes.

Qnestion. Was the original memorial of the petitioner, and the decree of the Governor, retained in the Government secretary's office, or were they delivered to the party petitioner?

Answer. The original memorial and decree remained in the secretary's office.

Question. What evidence of the grant or concession (if any) was furnished to the party to whom the lands were decreed?

Answer. A certified copy of the memorial or petition and decree, by the Secretary of the Government.

Question. According to your opinion of the usages of this province, in Spanish times, would or would not such certified copy of the memorial and decree have been received in the Spanish tribunals, and by Spanish public officers, as full evidence of title in the person to whom the concession or grant was thus certified to have been made?

Answer. I believe it would.

Question. Suppose, in fact, that at the time such certified copy by the Secretary of the Government was offered in evidence, it should be shown that the original memorial and decree were not in the office; would such certified copy still have been received as evidence of title?

Answer. I am inclined to believe it would, because I have been acquainted with many instances where the original directed that a certified copy be furnished the party for his security, and I understand the security was, to secure the party against the loss of the original.

Question. Had the interested party, I mean the petitioner, any control over, or right to the possession of the original memorial or decree?

Answer. I was always led to believe he had not; the original always remained in the office, that is, when the prayer of the petitioner was granted; where the prayer of the petitioner was not granted, the party would sometimes withdraw the originals; but where the lands were granted, the originals always remained in the office.

Question. Was, or was not, a copy of a concession properly certified by the Government Secretary, full evidence that the original had been made and was in the Secretary's office at the time the certified copy was given?

Answer. I would believe so.

Question. According to the usages of the Spanish Government here, were not such copies, *in the absence* of the originals, received as equivalent to, and actually made originals.

Answer. I should believe, from seeing the copy, that the original was in the office.

Question. Do you, or not, remember the time when the papers belonging to the office of the public archives of East Florida, were delivered to Mr. Reynolds?

Answer. I do not recellect the exact time; I believe aboutthe year 1823.

Question. By whom were they delivered to Mr. Reynolds?

Answer. I don't recollect by whom they were delivered; it runs in my mind that Mr. George Gibbs had something to do with them; I believe he was appointed one of the commissioners to take an inventory of them.

Question. Were you, or not, employed as a clerk in taking the inventory of these papers?

Answer. Yes, I was.

Question. In what state or condition were the papers found on your entering on the making this inventory; did they appear to have been previously regularly and carefully kept, or otherwise?

Answer. They were far from being regularly kept; they did not appear to have been carefully kept; they were all over the room; a good many of the papers were not alphabetically arranged, and they were scattered and mixed.

Question. Were the papers found on shelves, or scattered and loose over the room?

Answer. I don't recollect, at this time, whether any of them were on shelves; if there were any, I don't think there were more than two or three. I recollect seeing bundles on the floor.

Question. Were the bundles generally fastened, or were they loose and open?

Answer. Some of them were fastened, and a good many loose; the memorials and decrees were all on loose sheets of paper.

Question. In what place were these papers found on your entering on the duty of making this inventory.

Answer. In this house, in the large room below.

Question. Are, or are not, royal titles bound together in books, and were they not so in Spanish times?

Answer. Yes; I have seen royal titles, bills of sales, and mortgages, bound together in large books; I have, also, seen some dozen or more, stitched together and indexed at the back.

Question. How do you account for the different manner of keeping these royal titles?

Answer. The way I account for the different manner in which they were kept, is, when there was a sufficient number of small bundles stitched together, they were made into a large book.

Question. Were, or were not, the door and windows of the room in which you found these papers, secure and safe, or in what condition were they at that time?

Answer. Not much better than they are now, if any thing, worse; I do not recollect, particularly, the condition of the room; there is a new door to it now, which was not there then.

Question. When these papers were taken charge of by the commissioners, as stated by you, were they not in such a situation as to be actually liable to loss to destruction or to be taken from the office, by any one disposed to take them?

Answer. I think that any one could have free access to the office; I have gone by it frequently and seen the front windows open, and no one in the office; this was before the commissioners had charge of these papers.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by United States Attorneys.—Question. In your answers to the sixth, seventh, eighth, ninth, tenth, and eleventh questions, put to you by the counsel for the claimants, did you intend to express your own opinion only, or did you intend to speak of the known and established usage of the province under the Spanish Government?

Answer. I speak my opinion, as derived from the general usage of the country.

Question. What was your age at the time of the transfer of this province to the United States, and what opportunities had you of becoming acquainted with the usage of the province?

Answer. For many years before the exchange of flags, from the year 1815 to the change of flags, I was a commission merchant here, and had to apply for permission to land cargoes, and go through the regular routine of business. Witness is now about thirty-six years of age.

Question. Why do you believe that, according to the usage of the Spanish Government, a certified copy of a concession would have been received as full evidence of the concession; do you remember any case of the kind, and in what instance?

Answer. I recollect of one case, where I petitioned myself to have a piece of land surveyed, or to have a royal titled made out, and I accompanied the petition with a certified copy of the memorial and decree, and that certified copy was received as evidence, and no further evidence of the title was required, and the petition granted. I believe this was in relation to some land for one Martin, at Misquito; the documents of which case, the witness believes, are in existence. I don't recollect any other particular case, but it is my impression that that was the usage.

Question. Have you any other reason for believing the usage of the province to have been such as you have stated it was than the one you have just given?

Answer. I derived the impression from the custom of the country at that time, and the routine of doing business.

Question. What was the custom in cases where there could be found no original concession in the proper office of the Government, and an individual held a paper certified by the Government Secretary to be a copy from an original in that office?

Answer. I have never heard that question raised under the Spanish Government.

Question. You have said that you believed a copy of a concession properly certified by the Government secretary, full legal authority to the surveyor general, to survey to the party the land granted by the concession? were you acquainted with the laws on the subject?

Answer. I can't say that I was.

Question. You have said in answer to the eleventh question, put to you by the counsel for the claimant, you should believe from seeing the copy of a concession, that the original was in the office. In this answer do you express your own belief only?

Answer. Yes: my belief.

Question. In speaking of the manner in which the archives were kept by Mr. Law, you have said that any one might have had free access to the office, that you frequently went by and saw the front windows open, and there was no one in the office; could not the royal titles have been taken out as well as the concessions?

Answer. Any paper could be taken out, with the same facility: a bundle could be taken out, and a big bundle as easy as a small one; except that a person might hide a paper in his pocket, and it would not be so easy to hide a bundle.

Question. Were not the bundles in which the concessions were put up, larger and more difficult to remove than the sheets of paper stitched together, on which the royal titles were written?

Answer. These memorials and decrees were generally in bundles, but on loose sheets of paper, generally the small bundles containing royal titles, were stitched together, and on top of one another. I have stated before that a whole bundle of concessions, would be more difficult to remove, on account of the size. It would be much easier to take away a concession, that was on a separate sheet of paper, than to take away one of these bundles of royal titles that were stitched together.

Question. Have you ever known an instance, either under the Spanish Government, or since the transfer of the province in which a royal title was lost from the public office?

Answer. I have never heard of an instance.

Question. You have said that the papers in the office under the charge of Mr. Law, were kept in great disorder; do you believe that a person unacquainted with the manner in which they were kept, could find any particulur paper in a whole day's search?

Answer. It would be a very difficult thing, for a person not acquainted with the manner in which these papers were kept, to find any particular paper; I can't tell whether he could in a day's search or not.

Examined by Claimant.—Question. Do you not know that it saw the uniform usage and practice of the surveyor general, to act upon the copies of concessions certified by the Government secretary, as full authority to him for surveying the lands granted.

Answer. I always understood so.

TESTIMONY OF J. RODMAN.—Of John Rodman.

John Rodman sworn as a witness, in open court, in behalf of the *claimant.*

Question. When did you arrive in this country?

Answer. On the 13th day of August, 1821.

Question. Were you or not in the habit of frequenting the office of public archives, while in the charge of Mr. Edmund Law, in this city? If you were, be pleased to state in what manner the papers in this office were at that time kept, whether with care or otherwise?

Answer. Yes; I was very often at the office of the archives while kept by Mr. Law. It was kept directly under the court-room. I went to his office for the purpose of seeing the grants, and other papers in the office. I became well acquainted with Mr. Law. He was a very gentlemanly man, and I always took him to be a very honest and honorable one, in his public transactions. He kept his office of the public archives, in the most careless, slovenly, and negligent manner imaginable; the public papers were lying, a great many of them, on a long table, some in bundles, and some scattered about. The public office where these papers were kept, was frequently left open, and no person in it to take charge of them. I would not venture to look at the papers, when no person was in the office, but I frequently saw other persons that did; Spanish gentlemen, that I suppose, thought they had a right to look at them. Mr. Law did

not attend regularly himself at the office, being much afflicted with the rheumatism. Mr. Cavedo acted as his clerk generally, and was not regular in the office.

Question. Was this office, at the time you refer to, frequented indiscriminately by persons having business there, and by persons having no business there?

Answer. I can't say with regard to those who had no business there; with regard to those that had business there, I will mention one occasion. The occasion which I mention, was with Mr. Andrews, who was here, and agent for the sale of the Miranda grant. Mr. Andrew was afterwards made one of the judges under the ordinance of General Jackson. He asked me to accompany him to Mr. Law's office of the public archieves, to examine a large grant of land, which he told me was made to Mr. Arredondo, Jun. He told me it was near the grant to Miranda, and was afraid that it encroached upon it. As I knew a little of Spanish, he called upon me to examine these two grants, and compare them together. We found Mr. Cavedo in the office, but not Mr. Law; Mr. Cavedo took a large bundle of grants from off the table, and showed us both the grant to Miranda and the grant to Arredondo; Arredondo's for 250,000 acres. We examined very particularly both these grants, and Mr. Cavedo assisted us to translate them into English. We were perfectly satisfied they did not encroach upon each other. I can only observe, that before the land commissioners, when they applied to establish the grant to Arredondo, it could not be found, and has never been found since.

Question. Have you or not constantly resided in St. Augustine, since you first arrived in this Territory, and are you or not an attorney and councellor at law; and have you, or not, been for many years past the collector for this port and district?

Answer. I answer this question in the affirmative.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the office of the archieves was kept; which objection was overruled by the court.

Examined by U. S. Attorneys.—Question. Did you ever go to the office without finding Mr. Cavedo there?

Answer. I have been there many times; at least a dozen times, and found no person there, and the office open. I repeatedly complained to Mr. Law about it. I very rarely found Mr Law there. The reason that I went to this office so frequently was, because my friends in New York requested me to examine the titles to land there, and I went to the office so frequently for that purpose.

[No. 22.]

Offered and read as further proof by the claimant, and referred to in the foregoing entry of record.

Being the testimony of F. M. Arredondo, taken under commission duly issued from this court, and returned in the case of Elizabeth Wiggins, vs. the United States, the same being so copied as to be made applicable to this case, to wit:

DEPOSITION OF F. M. ARREDONDO.

DISTRICT OF E. FLORIDA, *July Term*, 1833.

MICHAEL LAZARUS, AND OTHERS *vs.* THE UNITED STATES OF AMERICA. } Land Claim.

Interrogatories to be propounded to Fernando de la Maza Arredondo, a witness to be sworn and examined on behalf of the petitioner, in the above entitled cause, before Joseph S. Sanchez, and John C. Cleland, Esquires, justices of the peace for St. Johns county.

First. What is your age?

Second. Are you a native born Spanish subject?

Third. Have you been, prior to the year 1819, (at which time this Territory was ceded to the United States,) a resident of East Florida? If you have, for what length of time?

Fourth. Are you familiar with the manner in which grants to land were usually made in this province, while under the dominion of the Spanish monarchy? If so, state what it was?

Fifth. Was the original decree or concession, by which such grants were made, delivered to the parties in whose favor they issued, or were they retained in some one of the public offices? If the latter, say in what office they were so retained.

Sixth. If in answer to the last preceding interrogatory, you say that the original decree, grant, or concession, was retained in a public office, by what means was it placed in the power of the grantee, to evidence his little, if at any time it became necessary to do so? Was it, or was it not, by the delivery to him of a copy of such grant, concession, or decree, and if it was, was such copy certified; and if certified, by whom?

Seventh. If you say, in your answer to the last interrogatory, that a certified copy of the grant, concession, or decree, was issued to the grantee for his use, be pleased to say to what credit was such certified copy entitled, according to the usages and practice that prevailed here in Spanish times; was it, or was it not, received as full and conclusive evidence of the facts set forth therein, and of the execution, existence, and genuineness of the grant of which it was a copy?

Eighth. Were copies of grants, decrees, or concessions, certified by the Governmeut Secretary of the province, received as evidence by the Spanish authorities, and in Spanish courts?

Ninth. If by any means the original grant, concession, or decree had been lost, destroyed, or any how abstracted from the office in which it was by law deposited, would such copy of such grant, concession, or decree, so certified by the Government Secretary, still have been received as evidence of the facts therein set forth, by Spanish authorities and in Spanish courts?

Tenth. Suppose the original memorial and decree of a concession or grant, from which such certified copy was made, could not be found at the time the certified copy was offerred in evidence, nor proved in

any other way than by such certified copy, would it (to wit, such certified copy) have been received as evidence that such original had been made, and had existed in the proper office, as set forth in such certified copy?

Eleventh. Was, or was not, a copy of a concession, certified by the Secretary of the Government, entitled to the same faith and credit as the certificate of a notary of the Government, to copies of instruments in his office?

Cross interrogatories, to be propounded to Fernando de la Maza Arredondo, on behalf of the United States.

First. If you answer the third preceding direct interogatory, in the affirmative, please to state what was your business, occupation, and pursuits, during your residence in East Florida?

Second. If in answer to the 4th direct interrogatory, you say that you are familiar with the manner in which grants to land were usually made in this province, while under the dominion of the Spanish monarchy, please to state whether that manner was uniform or variable; and if it varied, in what did the variance consist?

Third. If in answer to the fifth direct interrogatory, you say that the original decree or concession, was delivered to the parties, please to state what evidence was retained by the Government, that such concession had been made; and if you say that they were retained in some public office, state whether that practice was uniform and invariable or not; and if invariable, in what such variance consisted?

Fourth. If in answer to the sixth direct interrogatory, you say that the original decree or concession, was retained in a public office, and that a copy was delivered to the party, in whose favor such decree or concession was made, please to state how and in what manner such copy was verified; had it a seal, signo, (or signet,) affixed to it; and if it had either, which, and by whom was such verification made?

Fifth. If in answer to the seventh direct interrogatory, you say that a certified copy of the grant, concession, or decree, was received as full and conclusive evidence of the facts, set forth therein, and of the execution, existence, and genuineness of the grant of which it was a copy, please state whether you know and can recollect a single instance, under the Spanish Government, where such certified copy of a grant, concession, or decree for lands was offered and received in evidence, in any court or tribunal in this province; when it was known that "*no original*" of such grant, concession, or decree, was on file in the proper office? If you know of any such case, please state it and name the parties to it?

Sixth. If you do not know of any case, where a certified copy of a grant, concession, or decree for lands was offered and received in any Spanish court or tribunal, when it was known that there was "*no original*" on file in the proper office, how can you say, that there was such an usage as that, of which you have above spoken?

Seventh. If you answer the eighth direct interrogatory in the affirmative, please to state whether you know of one single case where a copy of a grant, decree, or concession, certified by the Government secretary of this province, was received as evidence by the Spanish

authorities, or in any Spanish court, when it was known that strict search had been made in the proper office for the "original," and *no such "original"* could be found on file there?

Eighth. If you answer the ninth direct interrogatory in the affirmative, please to state whether you ever knew such a case as that described in said interrogatory, to occur in this province under the Spanish Government? If you did, please to mention the case or cases.

Ninth. If you answer the tenth direct interrogatory in the affirmative, please to state clearly and distinctly, whether you ever knew any such case as that described in said tenth interrogatory, to occur in East Florida under the Spanish Government. If you did, please to name the case or cases, and state the time when they occurred, and in what court or tribunal.

Tenth. Do you not claim title to some land in East Florida, under alleged concessions or grants from the Spanish Government, the original grants or concessions for which cannot be found in the archives, and which claim has not been confirmed by the United States?

Eleventh. Do you not rely upon the certificate of Tomas de Aguilar, formerly the secretary of the governor of this province, as proof upon which you expect to procure the confirmation of your claim to one or more tracts of land in East Florida, claimed by you, under concessions alleged to have been made by the Spanish Government? Have you not claims to land, for which you have no other evidence that a grant, decree, or concession was ever made? Please state particularly.

Twelfth. If you answer the additional interrogatory of the complainants, numbered 11, in the affirmative, please to state how you know that fact. Do you know of any case, wherein any Spanish court or tribunal, the "faith and credit," to which a copy of a concession, certified by the Secretary of Government, and of the copy of any document from the escribano's office, certified by said escribano, were respectively entitled, was made a question?

Thirteenth. Was not the certificate of the escribano verified by a flourish or signo, (otherwise called a signet,) or both; and did the Government secretary affix to his certificates, either a seal, flourish, signo, or signet. If he did, which?

THO. DOUGLAS,
U. States Attorney, &c.

Superior Court.—District of East Florida.

MICHAEL LAZARUS, AND OTHERS.
vs.
THE UNITED STATES OF AMERICA. } Land Claim.

The answers of Fernando M. Arredondo to the interrogatories propounded to him, the said Arredondo being first duly sworn.

To the first interrogatory, witness answers: That on the 4th of next month, (August,) he will be 69 years of age, if alive.

Second interrogatory, witness answers: Yes.

Third interrogatory, witness answers: I have been a resident from the year 1784 to 1812, at which period, I went from this to the Havana as the representative of East Florida; that my family resided at St. Augustine, and though absent at this time, I was considered a resident of Florida.

Fourth interrogatory, witness answers: Yes; it was by memorial of the person who wanted the land, which if decreed upon that memorial, granted, it remained in the Secretary's office, and if denied the original memorial, was returned to the party.

Fifth interrogatory, witness answers: That they were retained in the Secretary's office of the Government, and a copy was granted by the Secretary, if it was required by the party.

Sixth interrogatory, witness answers: That if it was required by the party, the secretary gave an authenticated copy, which generally accompanied the petition for the royal title, and without the certificate they could not proceed, as the original never came out of the office.

Seventh interrogatory, witness answers: That it was the same as the original. I never knew an instance that it was doubted or questioned.

Eighth interrogatory, witness answers: Yes; there is not the least doubt of it. The same as if it was the original.

Ninth interrogatory, witness answers: No doubt of it.

Tenth interrogatory, witness answers: Yes; no doubt of it.

Eleventh interrogatory, witness answers: Yes.

Cross Interrogatories.

To the first cross interrogatory, witness answers: That he was in the employment of the Government, as principal officer of the hospital, commissary of the Indians, and clerk in the exchequer, for more than 20 years.

Second cross interrogatory, witness answers: I do not know that there was any variance; you sent the memorial and got the decree. Under all the governors here, it was done in the same manner.

Third cross interrogatory, witness answers: The original memorials were always retained in the Government secretary's office, (as stated in the fifth direct interrogatory,) as evidence of the grant having been made by the Government, and does not know of any variance.

Fourth cross interrogatory, witness answers: The certificate had no seal, but merely signed by the secretary and his private flourish.

Fifth cross interrogatory, witness answers: That he does not recollect of any instance, but does not doubt, that the certificate would be received in evidence in any of the Spanish courts.

Sixth cross interrogatory, witness answers: That he has not said that, that was the usage; but no doubt, if such a case had occurred, that the certificate of the secretary would be received in evidence.

Seventh cross interrogatory, witness answers: That he does no remember of any case, but I have no doubt that it would be received in evidence, if the secretary would certify that such a document existed.

Eighth cross interrogatory, witness answers: That he does not remember any particular case.

Ninth cross interrogatory, witness answers: That he does not recollect of any.

Tenth cross interrogatory, witness answers: Yes.

Eleventh cross interrogatory, witness answers: That he depends entirely upon his certificate, because my title has been in the office, and is proved to have been so, but now cannot be found. He knows that one of the titles cannot be found in the office, and others may have been lost also.

Twelfth cross interrogatory, witness answers: That he knows it, because it was publicly established that they were entitled to the same faith and credit: I do not know of any instance where it was disputed; but if such an instance had occurred, I have no doubt but that it would have been received as conclusive proof.

Thirteenth cross interrogatory, witness answers: Yes, every escribano had their separate signets, which they affixed to documents, when they authenticated them; to some documents the secretary affixed the government seal, and to others his own name and flourish; to some passports the government seal was affixed by the secretary, but to his certificates nothing but his name and flourish. ———

F. M. ARREDONDO.

Sworn to, and subscribed before us, this 25th day of July, 1833.

JOS. S. SANCHEZ, J. P.
JNO. C. CLELAND, J. P.
Commissioners.

[No. 23.]

Offered and read as further proof by the claimant, and referred to in the foregoing entry of record.

Being the testimony of John A. Cavedo, taken under commission, duly issued from this court, and returned in the case of Elizabeth Wiggins *vs.* the United States, the same being so copied as to be made applicable to this case, to wit:

DEPOSITION OF J. A. CAVEDO.

Superior Court for the Eastern District of Florida.—July term, 1833.

MICHAEL LAZARUS, AND OTERS *vs.* THE UNITED STATES OF AMERICA. } Land claim. 43,000 acres.

Interrogatories to be propounded to John A. Cavedo, a witness to be produced, sworn and interrogated in the above entitled cause, on

behalf of the plaintiff therein, before Joseph S. Sanchez and John C. Cleland, Esquires, justices of the peace for St. Johns county.

First. Are you or not a native inhabitant of East Florida?

Second. have you been acquainted with the mode of granting lands in Spanish times?

Third. What evidence of such grant or concession was given to the party in whose favor the grant or concession was made?

Fourth. If you say, in answer to the last preceding interrogatory, that a copy of the original memorial and decree, certified by the Secretary of the Government, was given to the party, be pleased to state whether such certified copy, according to usuage in Spanish times, was deemed full evidence of the grant or concession?

Fifth. Suppose the original memorial and decree should have been lost, or could not have been found, would such certified copy by the Secretary of Government, still have been received by Spanish tribunals as full evidence of the grant or concession?

Sixth. Would or would not such certified copy, according to your opinion, have been full and conclusive proof that the original memorial and concession had been made as set forth in the certificate, though, at the time such certified copy was offered in evidence, the original could not be found nor proved in any other way than by the certificate of the secretary?

Seventh. Do you, or not, consider the copies, certified by the Secretary of Government, equivalent to the originals as matter of evidence?

Eighth. Do you know whether or not the office of the public archives of East Florida was at any time in the keeping of one Edmund Law? and if so, when, and how long, and in what house was such office kept by him?

Ninth. Were you, or not, in the habit of frequenting the said office of the public archives while so under the charge of said Law?

Tenth. In what condition were the papers in said office kept? Were they carefully arranged on shelves, or carelessly scattered about the room?

Eleventh. Were the papers secured in bundles or not? and if they were generally so secured, or were or not in many instances, the fastenings of the bundles loosed, so that the separate sheets, of which said bundles were composed, were exposed to be scattered and blown about, and were they not actually so scattered and blown about?

Twelfth. Have your, or not, seen at various times the public papers in said office lying about in confusion on the floor?

Thirteenth. Was or was not the said office the common thoroughfare and lounging place of a great many idle persons?

Fourteenth. Was or was not the said office frequently left open, without the presence of any person who was authorized to protect, supervise, and keep in custody, the papers deposited in it?

Fifteenth. Do you, or not, know if it was the practice for persons who desired the use of papers on file in the said office, to take them out of the office in as great numbers, as at any time they pleased so to do?

Cross interrogatories to be propounded to John A. Cavedo on behalf of the United States.

First. If in answer to the fourth direct interrogatory, you say that a certified copy of the memorial and decree was, according to usuage in Spanish times, full evidence of the grant or concession to the person in whose favor such grant or concession was made, please state how you know that fact? Did you ever hear or see a case in which the principle was tested? If you did, please name the case and the parties to it.

Second. If you answer the fifth interrogatory in the affirmative, please to state how you know that fact; do you know or can you recollect a single case under the Spanish Government where such certified copy of a memorial and decree was received by any Spanish tribunal as full evidence of the grant or concession when the original memorial and decree could not be found, and there was *no other* evidence that such original memorial and decree ever existed? If you did, name the case, and say when it occurred.

Third. If you answer the sixth direct interrogatory in the affirmative, please to state whether you ever knew a single case under the Spanish Government, where such certified copy was received by any Spanish court or tribunal, as full and conclusive proof that the original memorial and concession had been made, as set forth in the certificate, when, at the time, such certified copy was offered in evidence, the original could not be found, nor proved in any other way, than by the certificate of the secretary; and there was no other proof that such original ever existed? If you do, please state the case, and say when and where it occurred, and name the parties to it.

Fourth. If you answer the seventh direct interrogatory in the affirmative, please to state whether you know of a single case, where such a copy certified by the Secretary of the Government, was offered and received as evidence equivalent to the original, when after due examination in the proper office, no such original was found on file there, and there was no proof, except said copy, that such original ever existed. If you do, please name the case, and the parties to it, and say when and where it occurred.

Fifth. If you know of no such case or cases as those above specified, how can you testitify that the "*usage*" is as you have above stated?

Sixth. If you answer the thirteenth direct interrogatory in the affirmative, please to name the persons who made said office a lounging place and thoroughfare, at the time you mention?

Seventh. If you answer the 15th direct interrogatory in the affirmative, please to state how you know that the practice in relation to said office, was as you have stated it; and particularly the time when, and what person or persons took any original papers from said office; and what papers they took, and whether they did not return them again to said office?

The counsel for the United States object to all the direct interrogatories of the complainant, from the 7th to the 15th inclusive. Be-

cause they are leading, "irrelevant;" and wholly inadmissible, according to every principle of law and equity.

THO. DOUGLASS.
U. S. Attorney, &c.

SUPERIOR COURT, *Eastern District of Florida.*

MICHAEL LAZARUS, AND OTHERS. *vs.* THE UNITED STATES OF AMERICA. } Land Claim.

The answers of John A. Cavedo, to the interrogatories propounded to him in the above entiled cause, the said Cavedo being first duly sworn.

First. To the first interrogatory, witness answers: I am.

Second. To this interrogatory, witness answers: I have.

Third interrogatory. Witness answers: a copy of the Governnor's decree from the Secretary of the Government.

Fourth interrogatory. Witness answers: It was.

Fifth interrogatory. Witness answers: It would.

Sixth interrogatory. Witness answers: It would.

Seventh interrogatory. Witness answers: I do.

Eighth interrogatory. Witness answers: I knew Edmund Law to have had the archives under his charge. I do not know how long, but it was kept at the Government house.

Ninth interrogatory. Witness answers: It was, as he had employed me to write for him in the same office.

Tenth interrogatory. Witness answers: They were, a part of them kept on shelves, and a part of them on the floor; they were not at all kept carefully.

Eleventh interrogatory. Witness answers: They were a part of them in bundles, and a great many loose, they were exposed to be blown and scattered about the room, and were blown and scattered about the room.

Twelfth interrogatory. Witness answers: Many times.

Thirteenth interrogatory. Witness answers: I do not know whether the persons that frequented the office, were idle or not, but there were a great many loungers about the office.

Fourteenth interrogatory. Witness answers: It was.

Fifteenth interrogatory. Witness answers: Mr. Law gave me an order to deliver the gentlemen of the bar, documents out of the office, by my receiving a receipt for the same.

Cross Interrogatories.

To the first cross interrogatory, witness answers: Because I never heard of any of them being disputed or rejected by the Government.

Second cross interrogatory. Witness answers: When the party petitioned for his royal title, the certified copy of the Governor's secretary was considered sufficient evidence to enable the party to obtain his title from the escribano's office.

Third cross interrogatory. Witness answers: I do not know. I cannot exactly state.

Fourth cross interrogatory. Witness answers: The certificate of the Secretary of the Government was considered as sufficient evidence. I do not recollect of any particular case, or the parties.

Fifth cross interrogatory. Witness answers: Because, I visited occasionally the escribano's office, and I saw how the proceedings went on.

Sixth cross interrogatory. Witness answers: I know several persons, to wit: Joseph S. Sanchez, Edward R. Gibson, Charles Vignoles, John M. Fontane, Rafael Fontane, Charles Gobert, Thomas Payne, Louis Hugnon, and many others, that I can't recollect.

Seventh cross interrogatory. Witness answers: I know of one instance wherein I took a receipt from Gautier, for the testamentary document of the estate of Mateo Guadarama. I do not recollect the time.

JOHN A. CAVEDO.

Sworn and subscribed to before us, this 30th day of July, A. D. 1833.

JOHN C. CLELAND, J. P.
JOS. S. SANCHEZ, J. P. } *Commissioners.*

The counsel for the United States objected to all the testimony of this witness in relation to the manner in which the office of the archives was kept by Mr. Law, as irrelevant, and objection overruled by the court.

And afterwards, before the supreme court, for East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the eighth day of said term, and the fifteenth day of August, the following *decree of confirmation* was entered of record in this cause, to wit:

DECREE OF CONFIRMATION.

HEIRS OF JOSEPH DELESPINE, MICHAEL LAZARUS, ENOCH WESWALL and JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land Claim. 43,000 acres.

Whereas, Joseph Delespine, Michael Lazarus, Enoch Weswall, and John Drysdale, did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the 15th day of May, 1828, file their petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court for the eastern district of Florida; and, *whereas*, the attorney of the United States for said district, did duly appear and answer said petition; and this cause having been heard, and evidence and argument of counsel, as

well on the part of the said claimants, as on that of the United States, having been offered and submitted to the court, and the court having examined the claim of the said petitioners, and the answer of the attorney of the United States, together with the exhibits and evidence filed in this cause, and having maturely considered the same, doth *order, adjudge*, and *decree*, that this claim is *valid*, and that in accordance with the laws and customs of Spain, and under and by virtue of the "late treaty of amity, settlement, and limits between the United States of America and the King of Spain," ratified by the President of the United States, on the 22d February, 1821, and under and by virtue of the laws of nations, and of the United States, it is hereby *confirmed, adjudged*, and *decreed*, unto the said claimants for their respective claims; to be surveyed from a tract of land forty-three thousand acres, and which is to be surveyed in conformity with the grant, on the west side of the river Ys, or Indian river, opposite to Mannetto island.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the eleventh day of said term, and the eleventh day of September, the following entry of record was made in this cause, to wit:

APPEAL.

THE UNITED STATES OF AMERICA, *ads.* HFIRS OF JOSEPH DELESPINE, MICHAEL LAZARUS, AND OTHERS,	Land Claim.	43,000 acres.

This day came as well the attorney of the United States for this district, as the solicitor for the said claimants; and the said attorney of the United States moved the court, that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation with notice of said appeal, may be forthwith issued by the clerk of this court to the appellees, and that the same may be served by the marshal of said district, upon the said appellees or their solicitor or agent, and returned to this court, within thirty days from the issuing thereof. All of which is ordered accordingly.

In pursuance of the above order, a citation of appeal was duly issued and delivered to the marshal of the district; which said citation and the return of said marshal thereon, are in the words and figures following, to wit:

CITATION OF APPEAL AND RETURN.

In the name and by the authority of the United States of America:

To the heirs of Joseph Delespine, dec'd, and to Michael Lazarus, Enoch Weswall, and John Drysdale, or to their agents, attorneys, or solicitors, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States, from the decree of the superior

court of East Florida, to the Supreme Court of the United States, in a certain claim to forty-three thousand acres of land, wherein you the said heirs of Joseph Delespine, Michael Lazarus, Enoch Weswall, and John Drysdale, are claimants, and the said United States respondent, and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

Witness, the honorable Robert Raymond Reid, judge of our said court, at the court house in the city of St. Augustine, this 12th day of September, A. D. 1837.

[SEAL.] K. B. GIBBS, Clk.

THOS. DOUGLAS,
Dist. Att'y.

JNO. DRYSDALE,
Sol. for Claimants.

Executed, by delivering a copy of this process to John Drysdale. September 13th, 1837.

JOHN M. FONTANE,
Dep. Marshal.

SUPERIOR COURT,
District of East Florida, to wit:

I, Kingsley B. Gibbs, clerk of the said court, for the district aforesaid, do hereby certify that the foregoing one hundred and forty-three pages contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge; and that the two surveys and certificates, thereto attached and made a part of this record, are faithfully taken and copied from the said documents as offered in evidence in said cause on file in my office.

In testimony whereof, I have hereto set my hand, at the city of St. Augustine, this thirty-first day of October, A. D. 1837.

K. B. GIBBS, Clk.

By the honorable Robert Raymond Reid, judge of the superior court for the distrtct of East Florida.

To all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida; that all due faith and credit are and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereunto set my had, and caused the seal of the said court to be hereunto affixed, this thirty-first day of October, A. D. 1837.

[SEAL.] ROBERT RAYMOND REID.